

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

* * *

STACIE RAY, BASIL ARGENTO,
JANE DOE, and ASHLEY BREDAS,
Plaintiffs,

vs. CASE NO. 2:18-CV-00272-MHW-CMV

AMY ACTON, IN HER OFFICIAL
CAPACITY AS DIRECTOR OF THE
OHIO DEPARTMENT OF HEALTH,
et al.,

Defendants.

* * *

Deposition of JANE DOE, Plaintiff
herein, called by the Defendants for
cross-examination pursuant to the Rules of Civil
Procedure, taken before me, Kathy S. Wysong, a
Notary Public in and for the State of Ohio, at the
offices of Calfee Halter & Griswold, 41 South High
Street, Suite 1200, Columbus, Ohio, on Friday,
September 13, 2019, at 11:02 a.m.

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EXAMINATION CONDUCTED

PAGE

BY MR. BLAKE:..... 5

EXHIBIT MARKED

(Thereupon, Defendants' Exhibit 8,
birth certificate of Jane Doe, was
marked for purposes of
identification.)..... 93

1 APPEARANCES:

2 On behalf of the Plaintiffs:

3 Lambda Legal

4 By: Kara N. Ingelhart (Videoconference)

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14 ALSO PRESENT:

15 Rachel Belenker

16 * * *

1 JANE DOE

2 of lawful age, Plaintiff herein, having been first
3 duly cautioned and sworn, as hereinafter
4 certified, was examined and said as follows:

5 MR. BLAKE: Do you prefer for
6 purposes of the record that we use the Jane Doe to
7 prevent it from being -- you know, the whole thing
8 being attorneys' eyes only or --

9 MS. INGELHART: So my only concern is
10 that some of the facts she may divulge could also
11 be identifying even without her name, I mean, like
12 different places she's worked --

13 MR. BLAKE: Sure.

14 MS. INGELHART: -- for instance,
15 so --

16 MR. BLAKE: Well, I think we can
17 handle that by just going through -- you know,
18 when the transcript is produced, you can designate
19 certain portions. My preference would be not to
20 designate the whole deposition attorneys' eyes
21 only.

22 MS. INGELHART: Yeah. Referring to
23 her as Jane Doe would solve that issue then, yeah.

24 MR. BLAKE: Okay.

25 MS. INGELHART: And for the witness,

1 is the witness comfortable with that?

2 THE WITNESS: Sure.

3 MR. BLAKE: Okay. So I'll refer to
4 you then just as Jane Doe to the extent I need to
5 say your name somewhere.

6 CROSS-EXAMINATION

7 BY MR. BLAKE:

8 Q. Let me just go over a few ground
9 rules. Is that okay?

10 A. Absolutely.

11 Q. All right. So have you ever had
12 your deposition taken before?

13 A. Yeah.

14 Q. How many times?

15 A. I'm making a rough guess, probably
16 about fifty.

17 Q. Fifty?

18 A. Five zero.

19 Q. So you're pretty familiar with how
20 this works?

21 A. I'm fairly familiar. I haven't
22 given a deposition for several years, but I've
23 done quite a bit.

24 Q. And have most of those depositions
25 been in the context of like your medical

1 expertise?

2 A. Exactly.

3 Q. Okay. Any other -- any other
4 context besides -- you know, besides medicine?

5 A. No.

6 Q. Okay. And have you been hired as
7 an expert witness in any of those instances?

8 A. Yes.

9 Q. And then what about just as like a
10 fact witness for some sort of medical
11 malpractice defense or something like that?

12 A. I served as an expert witness for
13 plaintiffs in medical malpractice lawsuits for
14 an approximately twenty to twenty-five year
15 span.

16 Q. It sounds like you've done quite a
17 number -- several dozen expert witnesses for
18 plaintiffs over the course of your career; is
19 that accurate?

20 A. That is accurate.

21 Q. Is that the only kind of
22 circumstance that you've been deposed in?

23 A. No. I also testified at trial as
24 an expert witness probably about ten times if I
25 had to guess. I don't have an exact number to

1 give you.

2 Q. Okay.

3 A. But it was over the same period of
4 time for the same reasons.

5 Q. And then have you ever just served
6 as a regular fact witness in any case?

7 A. I'm not sure I'm understanding
8 what your question is.

9 Q. Sure. So you mentioned these
10 times that you've served as an expert witness,
11 that's where a party hires you to come and
12 testify in your expert opinion about a matter I
13 assume relating to your field of expertise,
14 right?

15 A. Correct.

16 Q. Have there been any other -- well,
17 have you given testimony in a deposition or at
18 trial in any other context besides as an
19 expert?

20 A. I was called up in perhaps a total
21 of six medical malpractice actions where I was
22 the party, but I was a party among numerous
23 other physicians who were involved in the care
24 of the patient and I was -- I had to give a
25 deposition. I was severed before trial in each

1 case.

2 Q. Okay.

3 A. All of those occurred more than
4 twenty years ago, as far as I can recall.

5 Q. Okay. So you've been both an
6 expert witness hired for your expertise and
7 you've been also subject to discovery as a
8 defendant in medical malpractice cases; is that
9 right?

10 A. That is right.

11 Q. Okay. Now, I guess I'm less
12 interested sort of in the details of those
13 medical malpractice cases, but as a result of
14 any of those, did you ever have any -- like
15 your license suspended or revoked or under
16 investigation or anything like that?

17 A. Well, as I had said, I was severed
18 from these cases after I gave deposition. I
19 never actually had to testify at trial. I
20 continued in these lawsuits after I gave the
21 deposition obviously as just a bystander, so to
22 speak, in what happened to the patient, okay.
23 So I never went to trial. There was never a
24 payment made on my behalf. If you were to go
25 to the national practitioner databank, you'd

1 find no interest.

2 Q. Okay. I guess maybe the
3 terminology where you practice is different
4 than here, but, you know, here in Ohio when you
5 get severed from a case, that doesn't
6 necessarily mean your involvement in the case
7 is over as a defendant. It sounds like you
8 were dismissed, you no longer were a party --
9 or a defendant in the case after your
10 deposition; is that accurate?

11 A. That's accurate.

12 Q. Okay. Well, I won't spend a long
13 time then beating the -- you know, beating the
14 rules in a deposition to death. It sounds like
15 you have a lot of experience, and if there's
16 something that crops up, you know, you can let
17 me know and we can work it out. I will just
18 point out, you know, if you need to take a
19 break at any time, you know, you're free to do
20 that provided that there's not a question
21 pending. You know, if there's a question
22 pending, answer the question and then at that
23 point you're free to take a break. Okay?

24 A. Sure.

25 Q. And the other depositions of the

1 other plaintiffs I'll say have gone about three
2 hours so I would anticipate us to go about that
3 length of time today. Okay?

4 A. Okay.

5 Q. Let me see if there's anything
6 else. All right. As with the other
7 plaintiffs, I just want to lay some groundwork
8 for some terms I'm going to use for the
9 deposition and that way there's no confusion
10 when I refer to something what I'm referring
11 to. Okay?

12 So the first term is ODH, and when
13 I say ODH, that means all defendants
14 collectively. All right?

15 A. I presume that's Ohio Department
16 of Health.

17 Q. That's right. But the Ohio
18 Department of Health is just one of several
19 defendants here, right, you've also named the
20 Department of Vital Statistics, among others,
21 and you've named the directors or heads of
22 those various agencies in their official
23 capacity, so just so there's no confusion, ODH
24 means all the defendants, not just the Ohio
25 Department of Health. All right?

1 A. That's actually fine. You know,
2 ODH is not part of my normal working vocabulary
3 so I'm now adding it.

4 Q. Yeah, that's why I'm defining it
5 ahead of time. Now, if I do need to refer to
6 the Ohio Department of Health specifically,
7 I'll let you know that I'm doing it in that
8 instance. Okay?

9 A. Okay.

10 Q. All right. And if there's ever
11 any confusion about what I'm referring to, let
12 me know and I can clarify. Okay?

13 A. Okay.

14 Q. All right. The second term is
15 transgender, and when I use that term, I am
16 using it to refer to someone whose gender
17 identity does not align with their birth or
18 biological sex. Do you understand that?

19 MS. INGELHART: Objection. That
20 calls for expert testimony. Based on previous
21 experience, I think there's going to be a few
22 terms of art, like transgender, like transgender
23 sex, biological sex, gender identity perhaps,
24 later some others, but if we could just have sort
25 of an ongoing standing objection to those terms

1 and an understanding that those are terms of art
2 in dispute here, but I do understand the
3 efficiency here of trying to define terms. So
4 I'll object now but you can continue and you can
5 answer.

6 THE WITNESS: Okay. What was the
7 question?

8 BY MR. BLAKE:

9 Q. It was just me telling you when I
10 use the word transgender what it is I mean when
11 I say that. And when I use the term
12 transgender, I mean someone whose gender
13 identity does not align with their birth or
14 biological sex. All right?

15 A. I suppose that -- I don't suppose
16 that's unreasonable. We have to have some kind
17 of working terminology.

18 Q. Okay. Thank you. And cisgender
19 is -- when I use that term, I'm referring to
20 someone whose gender identity aligns with their
21 birth or biological sex. Okay?

22 A. Same stipulation.

23 Q. Okay. And I also know your
24 counsel's standing objection to the use of
25 various terms which are likely to come up

1 during the course of your deposition. Okay?

2 A. Yes.

3 Q. All right. Let's talk a little
4 bit about your background, and just first, what
5 is your address?

6 [REDACTED]
7 [REDACTED]
8 [REDACTED]

9 Q. All right. And how long have you
10 lived in [REDACTED]?

11 A. Approximately four years.

12 Q. And have you been at that address,
13 the [REDACTED] address the whole time?

14 A. Yes.

15 Q. Okay. Where did you live before
16 [REDACTED]?

17 A. A combination of Manhattan in New
18 York and in upper [REDACTED]

19 Q. Okay.

20 A. I had a period of time where I had
21 two residences.

22 Q. Okay. So you were living back and
23 forth between [REDACTED] and [REDACTED] is that
24 fair?

25 A. Yes.

1 Q. For how long did you do that?

2 A. Oh, approximately two years.

3 Q. Okay.

4 A. And then prior to that [REDACTED]

5 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

6 Q. Okay.

7 A. -- [REDACTED] [REDACTED] [REDACTED]

8 [REDACTED]

9 [REDACTED] Okay. All right. So that takes
10 us back about thirty-one or thirty-two years.
11 Prior to that where were you living?

12 A. In [REDACTED] [REDACTED] [REDACTED] where I
13 lived for I believe it was four years.

14 Q. Okay.

15 A. I'm getting a little rusty now.

16 Q. Yeah. Okay. I'm just trying to
17 get back to Ohio. So when did you -- when did
18 you move from Ohio?

19 A. When I was a child.

20 Q. Approximately --

21 A. A young child.

22 Q. Approximately how old?

23 A. I was under the age -- I was
24 approximately five.

25 Q. Okay.

1 A. My parents had -- they're separate
2 families, they span both Dayton, Ohio and New
3 York City, and the family moved back and forth
4 for several years.

5 Q. Okay.

6 A. Then we settled in Long Island.

7 Q. Okay. So you were born at one of
8 the stints in between [REDACTED] and Ohio?

9 A. I presume so.

10 Q. Yeah.

11 A. I don't know what other place they
12 were.

13 Q. We'll get into it, I guess. We've
14 got proof that you were born in Ohio, and I
15 hope we can all agree to that later on in the
16 deposition, but then you moved back to [REDACTED]
17 and were kind of raised there and at least
18 initially educated there and then worked there
19 for a long time?

20 A. It's more complicated. [REDACTED]
21 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
22 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
23 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

24 Q. Okay.

25 A. I went to high school in [REDACTED]

1 And when I finished high school, then I went to
2 undergraduate college [REDACTED] [REDACTED] [REDACTED] [REDACTED]

3 Then I went to medical school [REDACTED] [REDACTED] [REDACTED] [REDACTED]
4 [REDACTED]

5 Q. Okay. All good schools. So when
6 you were in [REDACTED] for your undergraduate,
7 what degree -- or what did you study while you
8 were at [REDACTED]?

9 A. Chemistry and physics. I
10 completed separate majors.

11 Q. And were those four-year degrees,
12 bachelor's of science?

13 A. Yes. It was one degree, it's just
14 the underlying courses of study were chemistry
15 and physics.

16 Q. And then I guess at that point
17 you -- did you go right to med school after
18 that, after graduating?

19 A. I did.

20 Q. And I assume you had taken enough
21 coursework to qualify you for the entrance into
22 medical school while you were at [REDACTED] as
23 part of your undergraduate degree?

24 A. Absolutely.

25 Q. Sorry?

1 A. Absolutely.

2 Q. Oh, absolutely. Okay. And you
3 mentioned you went to [REDACTED] for medical
4 school, right?

5 A. Correct.

6 Q. And that's another four years at
7 med school; is that right?

8 A. Correct.

9 Q. When did you graduate?

10 A. From?

11 Q. Columbia.

12 A. [REDACTED]

13 Q. Okay. And following your
14 graduation from medical school I assume you
15 started a residency program of some sort at a
16 hospital; is that right?

17 A. I completed a full internship and
18 residency in internal medicine at [REDACTED]
19 [REDACTED]. After that, I completed
20 a two-year fellowship in cardiology. And after
21 that, a one-year preceptorship in doing [REDACTED]
22 [REDACTED]

23 Q. So you had a two-year fellowship
24 in cardiology. Was that also at [REDACTED] or
25 was that somewhere else?

1 A. It was all at the same
2 institution.

3 Q. So all at [REDACTED] [REDACTED]?

4 A. Yes.

5 Q. Okay. And then the one-year
6 program following the fellowship, you said it
7 was a term I didn't recognize. It was -- could
8 you tell me what that is?

9 A. At that time there was no such
10 thing as a fellowship in doing [REDACTED]

11 [REDACTED]

12 [REDACTED] [REDACTED]

13 A. Yeah, [REDACTED] [REDACTED] [REDACTED]

14 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

15 [REDACTED] [REDACTED]. There was no formal
16 fellowship that existed in the United States.
17 The system was that you basically got yourself
18 hired by the chief of the department and worked
19 for the chief for a year, at the end of which,
20 assuming that he approved of you, he provided a
21 letter saying that you were qualified in that
22 area.

23 Q. Okay.

24 A. But there was no fellowship
25 program that was approved by the American

1 College of Cardiology. It didn't exist at the
2 time. This was before [REDACTED] [REDACTED]

3 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

4 Q. Okay.

5 A. The year after I finished I was
6 asked to work for the chief for another year
7 because he couldn't find somebody else to fill
8 that slot. During that year we did the first
9 [REDACTED] [REDACTED] in the hospital and I was
10 the fellow on the case.

11 Q. All right. And this -- I guess
12 what year did you complete your, I'm going to
13 call it medical training, you know, and that
14 captures the fellowship, the internship, and
15 this [REDACTED] program?

16 A. [REDACTED]

17 Q. [REDACTED] Okay. And then since that
18 time you've practiced as a cardiologist, it
19 sounds like, both in [REDACTED] [REDACTED] and [REDACTED] [REDACTED]
20 and [REDACTED] [REDACTED] right?

21 A. Well, I stayed at [REDACTED] [REDACTED] in
22 [REDACTED] [REDACTED] from [REDACTED] [REDACTED] working at [REDACTED]
23 [REDACTED] [REDACTED] where I had an appointment as a
24 clinical instructor at [REDACTED]. I was
25 simultaneously in private practice in

1 cardiology.

2 And then left [REDACTED] [REDACTED] in '97 and
3 moved back to practice in lower [REDACTED] [REDACTED] state,
4 about [REDACTED] [REDACTED] outside of Manhattan
5 at a place called [REDACTED] where I opened an
6 office, I had two other satellite offices, and
7 I practiced at that location until 1995 -- no,
8 2015.

9 Q. Okay. So --

10 A. At which time --

11 Q. Hold on. Let me just -- sorry.

12 Let me just go back real quickly and summarize
13 what you said. You're cutting in and out and
14 so I just want to make sure that the record is
15 clear. This stuff is not critical to your
16 testimony today, but I do appreciate the
17 detail.

18 My understanding then is for about
19 fifteen years following the completion of your
20 medical training you worked at [REDACTED] [REDACTED] as a
21 cardiologist and clinical instructor, and then
22 after 1997 you worked until about 2015 in
23 private practice outside of [REDACTED] [REDACTED] and you
24 had several offices where you maintained your
25 private practice. Is that more or less

1 accurate?

2 A. That's very accurate.

3 Q. Okay. And then I take it, based
4 on the chronology you gave us earlier, in 2015
5 you moved to [REDACTED] is that right?

6 A. That is right.

7 Q. And I assume you're in private
8 practice now or do you work for a hospital?

9 A. I work for a hospital.

10 Q. Okay. And what hospital do you
11 work for?

12 A. [REDACTED]

13 Q. Okay. What prompted the move from
14 [REDACTED] to [REDACTED]?

15 A. It was -- there were several
16 factors. One is I had gotten a divorce, and I
17 really didn't like being in the same area where
18 my prior life had been. It was problematic
19 going into a restaurant and being asked where
20 my ex was. I just wanted a fresh start. That
21 was one.

22 Number two, because of the fact
23 that I was in the process of going through a
24 gender transition, I had a drop in the volume
25 of patients that were coming to see me, who

1 objected because of their belief that they
2 wanted a different doctor, and so I probably
3 lost maybe a third of my patients. And the
4 consequence was there just wasn't enough income
5 to sustain a practice and with the expenses of
6 the divorce, ended up going bankrupt.

7 Made the conclusion that this was
8 either a very bad time in my life or God's way
9 of giving me a message to go do something else.
10 It took about six to eight months of searching
11 but I ultimately found this job in [REDACTED].

12 MS. INGELHART: Hey, Jake, could we
13 take just a one-minute break off the record. I
14 just need to adjust the temperature in this room?

15 MR. BLAKE: Sure.

16 MS. INGELHART: Thank you.

17 (Pause in proceedings.)

18 BY MR. BLAKE:

19 Q. As part of your medical training
20 and your undergraduate degree, is it your
21 understanding that sex and gender are
22 different?

23 MS. INGELHART: Objection. Calls for
24 expert testimony, but you can answer.

25 THE WITNESS: Look, I'm an

1 [REDACTED] I spend my day
2 worrying about [REDACTED] [REDACTED] [REDACTED] [REDACTED].
3 That topic is not something that ever comes up.

4 BY MR. BLAKE:

5 Q. Gender and sex don't come up
6 during the -- during the -- within the context
7 of your practice of medicine?

8 A. Maybe with cardiologists that you
9 know but not me.

10 Q. So you wouldn't consider yourself
11 an expert on issues pertaining to biological
12 sex and gender identity?

13 A. Not in the slightest.

14 Q. You didn't have any medical
15 curriculum that was focused on transgender
16 issues?

17 A. No.

18 Q. And then you're not a specialist
19 or a practitioner in the field of
20 endocrinology, right?

21 A. Correct.

22 Q. Same with molecular genetics?

23 A. I'm sorry?

24 Q. Molecular genetics, you don't
25 practice in that field, right?

1 A. Correct.

2 Q. And psychology?

3 A. Extremely little.

4 Q. Have you taken any coursework in
5 psychology?

6 A. Only during medical school.

7 Q. All right. Just the basic, you
8 know, like introductory course or courses that
9 every medical student would take?

10 A. Yes.

11 Q. And I assume that you've taken
12 some amount of, you know, coursework in
13 endocrinology as well, right?

14 A. Absolute minimum.

15 Q. Yeah. There's not a certification
16 or a course of study in transgender medicine,
17 right?

18 A. I believe that such courses are
19 starting to appear in a limited number in the
20 United States, but if they are, they are not
21 widespread.

22 Q. Do you know what schools --

23 A. I'm not familiar with them.

24 Q. Okay. You're not sure what those
25 courses relate to or where those courses can be

1 taken?

2 A. Correct.

3 Q. And do you know whether or not
4 those are even within the context of medical
5 training?

6 A. Again, I have no knowledge of
7 that.

8 Q. Have you taken any courses about
9 the distinction between sex and gender?

10 A. No.

11 Q. Have you published any papers on
12 the distinguishment of sex and gender?

13 A. No.

14 Q. Have you given any talks or
15 presentations on the topics of sex and gender?

16 A. No.

17 Q. All right. And I think as you
18 indicated, you certainly don't consider
19 yourself an expert in gender issues or issues
20 pertaining to biological sex, right?

21 A. Correct.

22 Q. From a medical perspective, do you
23 understand how a person's sex is determined?

24 A. I'm not even sure I understand
25 what your question is.

1 Q. Well, you understand that -- well,
2 do you know that people have a sex, a
3 biological sex? Do you at least recognize
4 that?

5 A. I actually find that very
6 difficult to respond to because what one person
7 means by biological sex is different from
8 another person. Anything that you might try to
9 pin down is subject to a lot of error. This is
10 not something that I'm an expert on, okay. I
11 do not know what criteria one would use
12 defining biological sex. I don't know what the
13 term really means.

14 Q. Well, let me ask you this way, if
15 you are going to perform heart surgery on
16 someone -- that's something you do, right?

17 A. No. I don't do heart surgery.

18 Q. You don't do heart surgery. Okay.
19 I guess what is it you do medically in the
20 field of cardiology?

21 A. [REDACTED]
22 [REDACTED]

23 Q. Okay. So as part of your

24 [REDACTED]
25 [REDACTED] do you ask people what their sex is?

1 A. No.

2 Q. So your form when people are
3 in-processed don't ask people to write down M
4 or F or anything like that?

5 A. I believe it is recorded in our
6 record, but that's not something I discuss with
7 my patients.

8 Q. All right. Do you associate any
9 biological outcomes or responses with a
10 person's sex?

11 A. Actually, I'm not sure I
12 understand what the question is.

13 Q. Well, you would agree that the
14 risk for heart disease correlates -- or there's
15 some correlation between a person's sex and
16 their risk for heart disease, right?

17 A. Actually, I would argue that.

18 Q. All right.

19 A. I personally don't think that's
20 true.

21 Q. So you don't -- so you don't
22 believe that males have any greater risk of
23 heart disease than females?

24 A. Not in my practice.

25 Q. Okay. Is it recognized --

1 A. It's separated by maybe a ten year
2 higher incidence in males, but we see a huge
3 number of women with advanced cardiovascular
4 disease so we very much try not to start off
5 with a prejudice that a particular woman is
6 less likely to have cardiovascular disease. We
7 usually just proceed that they're probably or
8 at approximately the same risk and that the age
9 relevance is markedly offset by their lipid
10 problems, their smoking history, whether they
11 have diabetes, their family history. These are
12 far bigger factors than whether they're male or
13 female.

14 Q. But you recognize if a person is
15 male or female, that is going to be one of many
16 factors that you're going to consider in [REDACTED]
17 [REDACTED] [REDACTED] [REDACTED] [REDACTED]
18 [REDACTED] correct?

19 A. One of many factors, but in my
20 opinion, it's extremely small.

21 Q. Okay. And I'm not asking you
22 whether it's the main factor or if it's even in
23 the top hundred of the factors, I was just
24 trying to clarify whether or not in your field
25 of cardiology it's recognized that a person's

1 sex as male or female has any bearing on their
2 risk for cardiological disease, and as I
3 understand --

4 A. There is a wide -- I'm sorry.

5 Q. -- and as I understand your
6 testimony, it's your opinion that yes, it can
7 but there are other factors which have far more
8 relevance; is that accurate?

9 A. That's accurate.

10 Q. So I guess I'll go back to my
11 original question, which is, you know,
12 determining someone's biological sex is a
13 component of diagnosing someone's risk for
14 cardiovascular disease; is that right?

15 A. Well, here's the problem. If I
16 have a patient who comes in who's, say,
17 presenting as female, I'm not going to be
18 looking for proof of whether or not they have a
19 particular genetic makeup. We don't do
20 karyotypes or chromosomal analysis. We don't
21 take pictures of their genitalia. I have no
22 actual idea when someone is in the office truly
23 whether or not the person in front of me is
24 male or female.

25 Q. So if they came in -- if this

1 hypothetical patient came in and was showing
2 signs of cardiovascular disease and they
3 indicated to you that you were female -- or
4 that they were female and you proceeded with
5 the treatment or course of treatment and then
6 you later discovered that they were, in fact,
7 transgendered and they had a biological sex as
8 male, that would be a factor that you would,
9 you know, take note of during your diagnosis,
10 correct?

11 MS. INGELHART: Objection. Asked and
12 answered but --

13 MR. BLAKE: There's no way I asked
14 and answered that question.

15 BY MR. BLAKE:

16 Q. But go ahead.

17 A. I'm confused by a term you used.
18 What is transgendered?

19 Q. Well, sorry, I thought that was
20 the term I defined, someone whose gender
21 identity does not align with their birth or
22 biological sex.

23 A. You're using transgender as an
24 adjective.

25 Q. Okay. So transgender, any related

1 part of speech, means someone whose gender
2 identity does not align with their birth or
3 biological sex, that's the noun, but a person
4 who is transgendered would be a person whose
5 gender identity does not align with their birth
6 or biological sex. I guess we could do it as a
7 verb too but that wouldn't really make sense.

8 A. You're making it into an
9 adjective. It's like saying someone who is
10 black is blackened.

11 Q. Well, no, but is there a different
12 way in which you would prefer me to say it? A
13 transgendered individual? A transgendered
14 individual; is that --

15 A. Yes, it's much better to use
16 transgender as a noun.

17 Q. Okay. So a transgender individual
18 comes to your office, okay?

19 A. Yes.

20 Q. All right. And they indicate to
21 you that they are a female. Still with me?

22 A. Okay.

23 Q. And you begin -- right, that's
24 what you record in your file, in your patient
25 notes, and begin your diagnosis and course of

1 treatment for what appears to you to be
2 cardiovascular disease, all right?

3 A. Okay.

4 Q. You later learn during the course
5 of treatment that this person is a transgender
6 person and, in fact, was born a biological
7 male. You still with me?

8 A. Yes.

9 Q. Do you in your practice update or
10 take note of the fact that this person's
11 genetics are male to the extent that that may
12 have a factor or impact on your diagnosis and
13 course of treatment?

14 MS. INGELHART: Objection. Compound.
15 You can answer.

16 THE WITNESS: The predominant reason
17 why people have cardiovascular disease is because
18 they have a genetic disorder of the way that the
19 liver handles their cholesterol, and they have an
20 elevation in what's called an LDL particle. And
21 this is a genetic defect that's transmitted in
22 families. There are multiple defects of this
23 kind -- of this type. Some of them are probably
24 sex linked. The majority of them appear to be
25 autosomal linked.

1 We do not currently have the
2 technology to identify the specific defects that
3 people have. Whether or not someone is male or
4 female at the moment has no bearing on whether or
5 not they have this kind of defect, and it's not
6 something that we would be using as part of
7 something that we change the way we would do
8 diagnostic testing or treatment. It's literally
9 of no -- in my practice, it's of no relevance.

10 BY MR. BLAKE:

11 Q. Can you rule out any causes of
12 cardiovascular disease based on what you've
13 referred to as sex-linked defects?

14 A. There's -- well, we don't know
15 that they're sex linked because there are so
16 many different defects, and we do not have
17 specific testing of which defect we're dealing
18 with unless you're in a research hospital. So
19 we know that they have a defect because their
20 particle levels are elevated, but the exact
21 nature of the defect will be unknown when
22 you're in an office practice.

23 Q. So it's possible in some settings
24 to eliminate certain causes of cardiovascular
25 disease because of a defect linked to a

1 person's sex but just not in your practice?

2 A. I'm not sure that I understand
3 that.

4 Q. Well, you said that in your
5 setting you couldn't do it, you couldn't make
6 the determination because you don't have a test
7 but that you could do it in maybe a laboratory
8 setting or something of that nature; is that
9 accurate?

10 A. That's possible, but, again, on a
11 practical basis, there is no availability for
12 testing of that nature. So we don't have the
13 ability to determine whether or not somebody
14 has a defect -- a genetic -- a sex-linked
15 defect as opposed to a nonsex-link defect.

16 Q. Okay. And that's with regard to
17 the LDL particles, right?

18 A. Correct.

19 Q. What about other causes of
20 cardiovascular disease, are any of those sex
21 linked?

22 A. Well, the only other causes that
23 I'm aware of are tobacco smoking and diabetes
24 accelerate the formation of cardiovascular
25 plaques, but there is no other underlying cause

1 for cardiovascular plaques to form that I'm
2 aware of.

3 Q. Does the impact of smoking or
4 diabetes have a greater or lesser impact on
5 someone's cardiovascular health dependent upon
6 their sex?

7 A. The primary impact is their
8 particle level, and you can't in any given
9 person indicate that their sex has anything to
10 do with their particle level.

11 Q. So if a male and a female smoke
12 the identical amount of cigarettes for an
13 identical amount of time, would you expect one
14 or the other's LDL particle level to be
15 greater?

16 A. I think you may have missed the
17 concept. The underlying reason why the
18 particle levels are elevated is due to a
19 genetic defect in the way that the liver
20 removes particles from the bloodstream and it
21 has nothing to do with sex.

22 Q. Except for in the cases where
23 there's a genetic defect --

24 A. Yes.

25 Q. -- that is then sex linked?

1 A. Yes.

2 Q. But for your purposes, it's
3 immaterial what's causing the liver to fail to
4 extract those particles, it's just -- you
5 just -- you're diagnosing -- you know, you're
6 diagnosing the symptom and proceeding from
7 there, right?

8 A. No, I wouldn't say that. We're
9 diagnosing the fact that they have an elevated
10 particle level, but whether or not the reason
11 why they have an elevated particle level is
12 because of any given specific defect, we don't
13 have the ability to do that.

14 Q. Do you treat equal numbers of
15 males and females?

16 A. I believe so.

17 Q. A person's biological sex is a
18 factor in his or her risk of stroke, right?

19 A. Actually, I don't believe that. I
20 believe the primary risk is what their LDL
21 particle level is.

22 Q. Do you know what the rates of
23 stroke are for males and females?

24 A. No. All of the patients that we
25 see in our office, they have strokes from

1 emboli from their heart and they have strokes
2 from plaque disease in their neck, and if they
3 have plaque disease in their neck, then they,
4 without exception, will have elevated LDL
5 particle levels.

6 Q. Do you know whether the types or
7 kinds of anesthesia or the amounts of
8 anesthesia that are given to patients prior to
9 surgery, do you know whether that depends, in
10 part, upon their biological sex?

11 A. Well, I don't deliver anesthesia.
12 Okay. We have certified registered nurse
13 anesthesiologists in our hospital who do
14 everything anesthesia. I'm aware that physical
15 size, body fat, these are all likely factors.
16 I'm not aware that male versus female is a
17 major issue in delivering anesthesia. We have
18 far more problems with massively overweight
19 people or people with respiratory disease, we
20 worry about those people. We don't sit and
21 worry about one patient having a certain
22 anesthesia risk because they're female.

23 Q. There are various postoperative
24 procedures associated with a person's
25 biological sex, right?

1 MS. INGELHART: Objection. It may
2 call for speculation.

3 THE WITNESS: I have no idea. I
4 don't know what you're referring to.

5 BY MR. BLAKE:

6 Q. So you don't know whether someone
7 post-surgery is given a different prognosis or
8 recovery or treatment plan based upon, at least
9 to some degree, their biological sex as male or
10 female?

11 A. Like, I'm [REDACTED]
12 [REDACTED] I do [REDACTED]
13 [REDACTED] [REDACTED] [REDACTED] [REDACTED]
14 [REDACTED] [REDACTED] [REDACTED] [REDACTED] Okay. I don't do
15 what is considered surgery. I'm not cutting
16 into people with a scalpel. I am not sure what
17 procedures you're talking about.

18 Q. All right. Do you prescribe
19 medications to any of your patients?

20 A. Of course.

21 Q. Okay. And I assume the
22 medications you prescribe have all been
23 approved by the FDA, right?

24 A. Correct.

25 Q. And from time to time during your,

1 you know, over thirty years of practice
2 there's, I assume, been lots of new medications
3 approved for treatment by the FDA, right?

4 A. Correct.

5 Q. And prior to authorizing new
6 medication from coming on the market and being
7 able to be prescribed and given to patients,
8 the FDA, you know, makes sure that that
9 medication is safe, right?

10 A. Yes.

11 Q. And in order to do so, they
12 conduct various studies, you know, as the
13 medication goes through its approval process,
14 right?

15 A. Yes.

16 Q. And that as part of that, the FDA
17 requires new medications be studied separately
18 on males and females to determine whether a
19 person's biological sex has an impact on the
20 response to the therapy, right?

21 MS. INGELHART: Objection. Calls for
22 speculation. You can answer.

23 THE WITNESS: Oh, okay. To tell you
24 the honest truth, I have no idea if they do that
25 or not.

1 BY MR. BLAKE:

2 Q. So you don't know whether the FDA,
3 when they're approving a new medicine, would
4 test it in a group of people in a study that
5 was comprised only of males and then
6 nevertheless approve it for both males and
7 females?

8 A. I would hope that they would. All
9 of the medications that I use do not have any
10 sex difference in terms of the FDA
11 recommendations for dosing.

12 Q. All right. But --

13 A. So it's something that is an
14 inactive issue in my practice with the current
15 medication that we have.

16 Q. But you would hope that the FDA,
17 prior to approving medicine for -- new medicine
18 for patients, would at least look at whether or
19 not that medicine had a differing impact based
20 on someone's biological sex, right?

21 A. I hope they look at everything.

22 Q. Whether someone is transgendered
23 has no impact on their risk of cardiovascular
24 disease, right?

25 A. I'm sorry, could you repeat that

1 question?

2 Q. Whether a person is a transgender
3 person has no impact on his or her risk of
4 stroke, right?

5 A. Well, first of all, I'm going to
6 object to you using the term transgendered. I
7 don't like to be described as a transgendered
8 person. I don't know what that means. We
9 discussed that previously. So I'd prefer if
10 you use transgender as a noun.

11 Q. Yeah. It may be the audio but I
12 intended to say transgender person.

13 A. Okay.

14 Q. So that's -- that was, I thought,
15 the term we had agreed on so --

16 A. Okay.

17 Q. -- I'm not trying to be, you know,
18 disrespectful, certainly not. So let me
19 rephrase it or try again.

20 Whether a person is a transgender
21 person has no impact on their risk of a stroke,
22 right?

23 A. I don't believe that it does.

24 Q. And whether a person is a
25 transgender person has no impact on their risk

1 of cardiovascular disease, right?

2 A. Well, I don't know you can say --
3 that's an awfully broad statement. Okay.
4 People who are transgender, a high percentage
5 of them are very economically disadvantaged.
6 They often can't get a job. They're often
7 heavily discriminated against. They're subject
8 to excessive violence. I think they're subject
9 to all sorts of physical problems as a result
10 of those prejudices that they experience in
11 society. But in terms of whether or not they
12 are inherently more subject to one kind of
13 disease or another, I have no knowledge or
14 awareness of that.

15 Q. Right. I mean, whether a person
16 is a transgender person is irrelevant in
17 determining whether or not they have an LDL
18 particle defect, right?

19 A. Well, your LDL particle defect is
20 an inherent genetic disease. The only thing
21 that affects that in ninety-nine percent of
22 people is who their parents were.

23 Q. And you're not aware of the FDA,
24 when they approve new medications, studying
25 separately how that new medicine impacts a

1 transgender person, right?

2 A. I have never heard of anything
3 where there was a sentence that involved the
4 FDA and transgender in the same sentence.

5 Q. And that's because there's no
6 evidence indicating that a transgender person
7 and a cisgender person have differing responses
8 to therapy, right?

9 MS. INGELHART: Objection. Calls for
10 speculation.

11 THE WITNESS: Well, I have no medical
12 knowledge of that.

13 BY MR. BLAKE:

14 Q. You agree that birth certificates
15 are a form of identification, right?

16 A. Correct.

17 Q. And you agree that birth
18 certificates reflect certain biographical data
19 existing at the time of birth, right?

20 MS. INGELHART: Objection to that
21 term biographical information. I just want to put
22 that on our disputed list or standing objection.
23 It calls for a legal conclusion.

24 THE WITNESS: I don't know what
25 biographical means.

1 BY MR. BLAKE:

2 Q. So it includes your birth date,
3 right?

4 A. Correct.

5 Q. It includes your location of
6 birth, right?

7 A. Correct.

8 Q. It includes your parents' names on
9 there as well, right?

10 A. Correct.

11 Q. That's all biographical data, you
12 would agree, right?

13 A. So far.

14 Q. It includes your sex, right?

15 A. No, I would not agree with that.

16 Q. You would disagree that the birth
17 certificate includes your sex?

18 A. Well, my definition of sex is
19 gender identity --

20 Q. Okay.

21 A. -- and the State doesn't make much
22 of an effort to record a child's -- newborn's
23 gender identity. It's really hard for them to
24 do that on a birth.

25 Q. We'll get into that in a minute,

1 but you do at least recognize that the birth
2 certificate contains -- or reflects a sex
3 identifier, right?

4 A. Yes, but I don't agree that it's
5 either accurate or reliable.

6 Q. Okay. At the time the birth
7 certificates are made, does the individual have
8 any control over what information is displayed?

9 A. No.

10 Q. And is it your understanding that
11 it's ODH that records the information reflected
12 on the birth certificate?

13 A. Yeah. Obviously there's an
14 interaction with the physician, but to that
15 extent, yes.

16 Q. All right. The physician -- the
17 medical provider who is there at or near the
18 time of birth records certain data, we won't
19 call it biographical data, but they record
20 certain data, right?

21 A. Right.

22 Q. And then they somehow transmit
23 that information to ODH, right?

24 A. Correct.

25 Q. And the individual whose

1 information or data is recorded on that birth
2 certificate, they don't certify the accuracy of
3 that information, right?

4 A. Correct.

5 Q. It's ODH that certifies the
6 accuracy of the birth record, right?

7 A. Correct, but I don't think that
8 they are in a situation where they can certify
9 the accuracy.

10 Q. Right. Well --

11 A. The information is inherently
12 inaccurate.

13 Q. Right.

14 A. They're not taking pictures of the
15 baby's genitalia and recording it. They're not
16 doing a karyotype or a -- doing genetic testing
17 to be sure what the nature is of the underlying
18 sex by your term. So if there is an error, it
19 just slips through the system. There's
20 approximately, I think, about one in a thousand
21 kids are born with indeterminate genitals so I
22 don't know what ODH does in those
23 circumstances. Obviously there are
24 circumstances where there's inaccuracies.

25 Q. Do you know what ODH's process is

1 for recording the sex of an individual born
2 with indeterminate sex characteristics?

3 A. No, I have no idea.

4 Q. Do you know what ODH's process is
5 for correcting typographical errors or
6 misidentified individuals at the time of birth?

7 A. No. All I know is that they got
8 mine wrong.

9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED] I have no way of knowing
15 that.

16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

1

2

MS. INGELHART: Objection. Calls for speculation. You can answer.

4

5

6

7

THE WITNESS: To tell you the truth at the moment, I have no idea what the policy is other than they're refusing to change my gender identifier.

8

BY MR. BLAKE:

9

10

11

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13

14

Q. Is it your understanding that ODH's, I call it a policy, but is it your understanding that ODH's procedure for changing the sex identifier on a birth certificate is that they will do so when there was an error at the time of birth?

15

16

17

MS. INGELHART: Objection. Calls for a legal conclusion and some speculation. You can answer.

18

19

20

21

22

THE WITNESS: I don't think it's -- you know, I feel that from my perspective, sex and gender are the same thing. I don't think I should be in a position of having to prove what my gender identity is to the Ohio Department of Health.

23

BY MR. BLAKE:

24

25

Q. Your opinion that sex and gender are the same thing, is that based on any

1 medical or scientific information?

2 MS. INGELHART: Objection. Calls for
3 expert testimony.

4 THE WITNESS: Look, I'm not -- as we
5 talked about before, I am not an expert in this
6 field. I have had no training in this field. All
7 I know is that from my belief, gender is the same
8 thing as sex for this purpose. I don't see why
9 the State should be refusing to honor my request
10 to give me a corrected document.

11 BY MR. BLAKE:

12 Q. So setting aside a chromosomal
13 abnormality, if I told you someone had XX
14 chromosomes, that would indicate a biological
15 sex as female, right?

16 MS. INGELHART: Objection. Expert
17 testimony. You can answer.

18 THE WITNESS: I'm not sure.

19 BY MR. BLAKE:

20 Q. You don't know whether someone
21 with XX chromosomes in a normal circumstance
22 would be a biological female?

23 A. No, I -- I'm sorry, maybe I didn't
24 hear your question correctly. The answer to
25 that is yes.

1 Q. And if they were born with XX
2 chromosomes, you would have no idea whether or
3 not that person was a transgender individual,
4 right?

5 A. I didn't hear that question
6 clearly.

7 Q. Yeah. So whether or not someone
8 has XX chromosomes has no bearing on whether
9 that individual is a transgender individual,
10 right?

11 A. XX? Let's see.

12 MS. INGELHART: Inserting an
13 objection. Calls for expert testimony. You can
14 answer.

15 THE WITNESS: I don't -- I don't know
16 how currently looking at someone's karyotype is
17 going to allow somebody to understand whether or
18 not an individual is transgender.

19 BY MR. BLAKE:

20 Q. Okay. And if a person has a
21 biological sex as female and absent any
22 indeterminate sex characteristics or other
23 abnormalities, that individual's external
24 genitalia at birth would also indicate a
25 biological sex of female, right?

1 MS. INGELHART: Objection. Expert
2 testimony. You can answer.

3 THE WITNESS: I really don't know
4 what you mean by biological sex.

5 BY MR. BLAKE:

6 Q. Well, I mean, we've just talked
7 about that an XX -- a person with an XX
8 chromosome, right, absent any chromosomal
9 abnormality, they would -- they would be born a
10 female, right?

11 A. Most usually, but in this -- I'm
12 not an expert in that area.

13 Q. Right. I get it. And we're
14 excluding the things where people have, you
15 know, intersex conditions or their karyotype is
16 one of the nonregular karyotypes, you know, one
17 of the one and a thousand people that you
18 referenced earlier, okay?

19 A. Okay. But, again, my definition
20 for sex is gender identity, and it appears that
21 your definition for sex is what their genitals
22 look like at birth --

23 Q. And --

24 A. -- and I would argue that that's
25 something that's open to a lot of error.

1 Q. Understood. So what I -- what my
2 question was, someone who has XX chromosomes,
3 all right, absent any other abnormalities,
4 their external genitalia at birth would
5 indicate -- also indicate a biological sex of
6 female, right?

7 MS. INGELHART: Objection. Expert
8 testimony. You can answer.

9 THE WITNESS: Again, you're asking me
10 for -- literally to be an expert about the
11 genitalia of young infants, and I am not.

12 BY MR. BLAKE:

13 Q. So you had four years of medical
14 training, I assume four years of residency, two
15 years of a fellowship, and then one year of
16 like a post-doctorate fellowship and your
17 testimony is that you don't know whether a
18 normal human baby born with XX chromosomes
19 would also have external genitalia that conform
20 to a female?

21 MS. INGELHART: Objection. Misstates
22 prior testimony. Asked and answered. You've
23 really been beating this over and over again, but
24 you can answer.

25 THE WITNESS: Okay. I had six weeks

1 of pediatrics when I was a medical student
2 approximately fifty years ago, okay, so for you to
3 ask me to be an expert in inspecting the genitalia
4 of newborns to be sure that I'm not making an
5 error, well, I don't look at newborns. I haven't
6 looked at newborns for fifty years, other than my
7 two children. But being able to reliably discern
8 people's genitalia reliably, I don't think I'd put
9 myself in a professional position of doing that.

10 BY MR. BLAKE:

11 Q. Do you think that the medical
12 providers, the obstetricians, the pediatricians
13 who record the information, medical and
14 otherwise, about a child at or near the time of
15 birth, do you think they have the expertise and
16 capability to record that information?

17 MS. INGELHART: Objection. Calls for
18 speculation and expert testimony. You can answer.

19 THE WITNESS: Again, my definition of
20 sex is gender identity. I don't know currently
21 how obstetricians and gynecologists are able to
22 assess the gender identity of children when
23 they're just born. I don't know how this is done.

24 BY MR. BLAKE:

25 Q. You don't have any idea how a

1 doctor --

2 A. I'm sure they take -- I'm sure
3 they take a cursory look at the an individual's
4 genitalia and they make a rapid rough
5 assessment, but I don't see how they can assess
6 individual's gender identity.

7 Q. Yeah, you're not aware of any
8 tests where a newborn infant could be
9 identified as a transgender individual, right?

10 A. Listen, I'm not trying to be
11 difficult, but as I said before, I'm [REDACTED]
12 [REDACTED] I'm not a
13 gynecologist or obstetrician. You're asking me
14 medical questions that are outside of my scope
15 of practice.

16 Q. I get that it's outside of your
17 scope of practice. What I guess I'm struggling
18 with is whether or not you think that
19 identifying a boy or a girl is outside the
20 scope of your just experience as a human being.
21 Is that also your testimony?

22 A. No. I think that routinely that
23 people make rapid cursory assessments, but I
24 don't think they're accurate.

25 Q. I mean, your understanding of what

1 the medical provider does at or near the time
2 of birth is quickly look at the external
3 genitalia of the newborn and then records that
4 information on the appropriate forms; is that
5 your understanding?

6 A. They make a rapid assessment and
7 record what their initial impression is, but I
8 don't think that's reliable, accurate, or
9 answers what the question is, which is what is
10 their gender identity.

11 Q. Right. And the question I had
12 asked before which you didn't answer is you're
13 not aware of any tests that can be conducted at
14 or near the time of birth that would reveal a
15 newborn's gender identity, right?

16 A. Correct. I'm not aware of any
17 such thing.

18 Q. If a medical --

19 MS. INGELHART: Can we --

20 MR. BLAKE: Go ahead.

21 MS. INGELHART: Can we take a quick
22 bio break and go off the record?

23 MR. BLAKE: Yeah, that's fine.

24 MS. INGELHART: Thanks so much.

25 (Pause in proceedings.)

1 BY MR. BLAKE:

2 Q. Do you understand how a person's
3 sex is determined from a medical perspective?

4 MS. INGELHART: Objection. Expert
5 testimony. You can answer.

6 THE WITNESS: I don't understand the
7 question. I'm not an expert in the area of sex or
8 gender identity. I don't know.

9 BY MR. BLAKE:

10 Q. All right. You understand that
11 there are males and there are females, right?

12 A. Even that I would have to beg off.
13 You're asking from me for, I presume, a
14 scientific definition. I'm not aware of one.
15 That field is not something I am trained in and
16 so I don't think I can answer.

17 Q. So you don't know, despite your
18 years and years of medical training and decades
19 of practice in the field of medicine, whether
20 or not it's important to identify a person's
21 biological sex?

22 A. And, again, as I said, I'm an
23 [REDACTED] We don't look at
24 people's gender as being a major impact on
25 diagnosis or treatment and it's not -- I don't

1 sit there and confirm with patients in the
2 office are you truly male or female. We don't
3 do any specific testing to confirm people's
4 karyotype. None of this is relevant to my
5 practice. I haven't had training in pediatrics
6 for over fifty years, and this is not something
7 that comes up in the course of my practice so
8 why should I be knowledgeable about that?

9 Q. What about as a general matter, do
10 you have any idea how sex is identified in an
11 individual?

12 A. Well, again, this is -- that's not
13 my area of expertise. I've had enough battles
14 of my own about sex and gender. I don't think
15 about it. I haven't thought about it in years.
16 I don't have any specific opinions, okay, I
17 just want a corrected birth certificate for me.

18 Q. You mentioned you were married
19 before, right?

20 A. Yes.

21 Q. Did you have kids?

22 A. Yes.

23 Q. Do you know the sex of your
24 children?

25 A. Yes.

1 Q. And at what time did you have an
2 understanding of the sex of your children?

3 A. When they were born.

4 Q. And how did you make that
5 determination?

6 A. Myself visually.

7 Q. Based upon what criteria?

8 A. Well, now you're -- I'm going to
9 beg off answering that. Now you're asking me
10 to start elaborating on the genitalia of my
11 children and I find that offensive.

12 Q. But without disclosing the
13 genitalia -- what the genitalia of your
14 children was, that's the criteria you used to
15 identify their sex at birth, right?

16 A. Correct.

17 Q. And that information was either
18 confirmed by the medical provider or related to
19 the medical provider who in any event
20 transmitted that information I assume to
21 whatever Department of Health equivalent they
22 had in whatever state your children were born,
23 right?

24 A. I don't know how they confirmed
25 it. [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

1 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
2 [REDACTED] [REDACTED] [REDACTED] It was a roughshod assessment of
3 what their gender and sex was. I don't -- from
4 my personal belief, I don't think that's
5 particularly reliable.

6 Q. Okay. And, you know, regardless
7 of your perception of the reliability of the
8 doctor's visual inspection of your child to
9 determine their sex, that's your understanding
10 of the process, right?

11 A. Yeah, but are you aware just how
12 many errors are made in the medical profession
13 every day that cause death? I mean, the number
14 of medical errors our population is subject to
15 is enormous. I have no confidence, okay, about
16 what you're asking me about.

17 Q. Well --

18 A. It's a rough-hand assessment, [REDACTED]
19 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
20 [REDACTED] [REDACTED] [REDACTED] [REDACTED]

21 Q. Right. But do you believe that
22 your children have had their sex misidentified
23 on their birth records?

24 A. Personally, no.

25 Q. Okay.

1 A. Does that mean that it could have
2 been misidentified? Sure.

3 Q. But you don't have any evidence of
4 that, right?

5 A. No. Well, I have no reason to go
6 searching for it.

7 Q. Okay. And when you were born, you
8 were identified as a male, correct?

9 A. Correct.

10 Q. And do you have any reason to
11 believe that that identification occurred under
12 circumstances any different than what you're
13 familiar with with your own children?

14 A. No.

15 [REDACTED]
16 [REDACTED]

17 MS. INGELHART: Objection. Calls for
18 expert testimony, speculation.

19 BY MR. BLAKE:

20 Q. Go ahead.

21 A. I honestly can't answer you. I
22 was there, but I wasn't in any condition to
23 make a personal assessment.

24 [REDACTED]
25 [REDACTED]

1

2

MS. INGELHART: Objection. Calls for expert testimony.

4

5

6

THE WITNESS: No. Again, why or would I? Again, except that I was there, they didn't have a camera. I have no way of knowing.

7

BY MR. BLAKE:

8

9

10

Q. Do you contend it was inaccurate for the medical provider to record your sex as male at the time of your birth?

11

12

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A. Again, I believe you're asking me the same question essentially over and over again. The -- I'm sure he did his best, but, again, there were no scientific methods used to determine what my actual gender identity was; and as to the accuracy of his assessment, I was there but not in a condition to make my own opinion.

19

20

21

Q. Do you believe the doctor -- the medical provider should have reported your sex at birth as female?

22

23

24

25

A. I don't think he should have reported it at all. I personally don't see what the slightest real use of the State of Ohio is for recording a sex or gender identity

1 at birth. I don't understand what the value of
2 it is.

3 Q. Do you have an understanding why
4 the Department of Health records an
5 individual's sex at birth?

6 MS. INGELHART: Objection. Calls for
7 speculation.

8 THE WITNESS: I could speculate, but,
9 again, I have no personal knowledge of why they do
10 it.

11 BY MR. BLAKE:

12 Q. All right. Are you familiar with
13 infant growth charts?

14 A. Vaguely from fifty years ago.
15 Again, I'm not a pediatrician.

16 Q. Yeah. I'm not asking for any
17 expertise about you being a pediatrician. I'm
18 just wondering whether or not as a parent you
19 were ever shown or provided information related
20 to a childhood growth chart?

21 A. Sure, I looked at the growth
22 charts for my children.

23 Q. And you knew that your child based
24 on their sex was, you know, in such and such
25 percentile for height and weight and head

1 circumference and things like that, right?

2 A. Again, I presumed that they were
3 within normal limits at the time.

4 Q. I guess that wasn't my question.
5 I apologize if you interpreted my question as
6 trying to delve into whether or not your
7 children were on a particular percentile or
8 anything like that. I was just simply asking
9 whether or not you were generally familiar with
10 that's how children are tracked for their
11 growth, right?

12 A. Yeah, I'm aware that's one of the
13 things that's done.

14 Q. And that they have this growth
15 chart for both males and females, right?

16 A. Sure.

17 Q. And a child that weighs fifteen
18 pounds at, you know, four months is going to be
19 in a different percentile, you know, based on
20 whether they're a male or a female, right?

21 A. We made an assumption that my
22 children were of the gender identity/sex,
23 however you want to argue it, that they
24 appeared to be on face value and they both fit
25 within the growth charts of normal.

1 Q. Right. But you recognize there's
2 different growth charts for males and females,
3 right?

4 A. Correct.

5 Q. And do you know that -- do you
6 know the organization or entity that publishes
7 the information that goes into creating those
8 growth charts?

9 A. No idea.

10 Q. All right. Would it surprise you
11 if I told you it was the CDC or that's one of
12 the entities?

13 A. I have no idea.

14 Q. Do you know what the CDC is?

15 A. Sure.

16 Q. Okay. The Center for Disease
17 Control, right?

18 A. I believe that's correct.

19 Q. Just to make sure we're talking
20 about the same thing. And they compile a bunch
21 of information related to illnesses and vital
22 statistics and things of that nature, right?

23 A. Correct.

24 Q. All right. And that the Ohio
25 Department of Health, ODH, provides information

1 about the children that are born in its state
2 to the CDC, are you aware of that?

3 A. No.

4 Q. Okay. Well, would that surprise
5 you if that's where the CDC gets its
6 information, from the various Departments of
7 Health around the country?

8 A. I'm not sure what would surprise
9 me. I'm not sure what disease they're trying
10 to control with getting that kind of
11 information.

12 Q. They're not trying to control a
13 disease. They're merely assembling data to
14 maintain the growth charts, you know, in the
15 nation, right?

16 A. Their mandate is to be the Center
17 for Disease Control. What disease is it that
18 they're worried about that they're tracking
19 growth charts?

20 Q. So do you think that it's not
21 valuable information for a parent or a medical
22 provider to know whether a child falls within a
23 normal range of growth for height, weight, head
24 circumference? Is that your testimony?

25 A. Again, I have -- I'm curious

1 because that's outside of what I perceive their
2 mandate to be, and I have no idea of what
3 disease they're trying to control by looking at
4 growth charts.

5 Q. Okay. Did you find -- go ahead.

6 A. I'm not an expert in epidemiology
7 so I have no idea what they're doing.

8 Q. Okay. Did you find the
9 information about your own children, their
10 growth information, did you find that
11 information useful as a parent?

12 A. Not particularly.

13 Q. Would you have been concerned if
14 your child was, you know, below the first
15 percentile or above the ninety-ninth percentile
16 for things like height, weight, or head
17 circumference?

18 A. I'm sure I would, but they
19 weren't.

20 Q. And so you can see the value of
21 those growth charts then for children who are
22 born which fall outside, you know, the normal
23 range of the growth chart, right?

24 A. I guess so. Again, I'm not a
25 pediatrician so I'm not sure whether or not

1 those charts are more reliable than just a
2 physical inspection of a child. I have no
3 idea.

4 Q. All right. So just going back to
5 your statement about why the State of Ohio is
6 collecting information about a person's birth
7 sex, you would agree that if the State didn't
8 collect that information and report that
9 information, there would be no way to compile
10 the data which forms the basis for those
11 percentile charts, right?

12 MS. INGELHART: Objection. Calls for
13 speculation, expert testimony. You can answer.

14 THE WITNESS: Again, I don't know why
15 they're collecting this data. I don't know what
16 its use is. I don't know why the Center for
17 Disease Control would be interested in this.
18 Okay. You're asking me to speculate about an
19 entire bunch of activity that I have no awareness
20 or knowledge of.

21 BY MR. BLAKE:

22 Q. Well, wait a minute. Look, I
23 mean, let's try to be -- let's try to be
24 consistent and I think honest here. You just
25 testified that you would find the information

1 on the growth charts useful if your child fell
2 outside of the normal ranges, right?

3 A. No. No, I didn't say that.

4 Q. Okay. What did you testify then
5 because that's what I -- that's what I
6 recollect.

7 MS. INGELHART: Object to form.

8 THE WITNESS: No awareness that
9 looking at a growth chart as opposed to the visual
10 assessment by a trained pediatrician, which of
11 them is more useful. I didn't say that the growth
12 chart was more of greater benefit.

13 BY MR. BLAKE:

14 Q. So when you prescribe treatments
15 or therapies for your patients, do you ever
16 rely on historical data regarding the
17 effectiveness of such treatment?

18 A. I'm not sure how to answer that
19 because I've been in practice doing what I do
20 for forty years so most of what I rely on is my
21 own personal experience in diagnosing or
22 treating a disease inside my scope of practice.
23 So there's relatively little that I'm relying
24 on other people's opinions about what to do.

25 Q. So you don't ever rely on studies

1 or reports which reflect outcomes or expected
2 outcomes or anything of that nature?

3 A. When you're using the term
4 relying, you're meaning the physician is making
5 their entire judgment about how to diagnose and
6 treat off of other -- outside data. I hope you
7 don't go to a doctor like that.

8 Q. Yeah, I mean, that's -- you're
9 obviously mischaracterizing what I said.
10 Reliance -- I didn't say solely rely. I said
11 whether or not you ever look at such studies to
12 help inform your decision on how to treat a
13 patient or prescribe a medicine or proceed with
14 a therapy, right?

15 A. I misunderstood your question.
16 I'm sorry.

17 Q. Okay. So --

18 A. Actually, I do look at -- I read
19 the literature constantly.

20 Q. Do you ever consider whether or
21 not someone is obese in your practice when you
22 look at treatment therapies or options or
23 diagnosing a disease?

24 A. We look at it, but it's actually a
25 relatively minor risk factor for cardiovascular

1 disease. It's much weaker than -- the most
2 strongest indicator is your LDL particle limit.

3 Q. When you make the determination
4 about someone's obesity level, doesn't that in
5 part depend upon whether they're a male or
6 female?

7 A. No.

8 Q. No? So someone's body mass index,
9 right, if that's a term I can use, doesn't that
10 tell you whether or not they're obese?

11 A. Yes.

12 Q. And doesn't the body mass index
13 for a female -- what is the body mass index for
14 a female, what qualifies them as obese?

15 A. Usually the number thirty is used.

16 Q. And then what about for males?

17 A. I believe they use the same
18 number.

19 Q. Okay. So you think the BMI level
20 is the same for male or female?

21 A. I could be wrong about that. As
22 far as I know in our office we're using the
23 same number for body mass index and it's an
24 objective number, it's not based on a table.

25 Q. And do you think that the body

1 mass index -- the healthy body mass index is
2 the same regardless of whether you're a male or
3 a female?

4 A. I wouldn't use the term healthy
5 because you're trying to describe -- no,
6 seriously, you're trying to describe health as
7 being that if their body mass index is below a
8 certain number, then they're healthy. That's
9 not true.

10 Q. Well, what term would you use?
11 Would you use the term normal?

12 A. Well, no, I'd say their weight is
13 below their recommended body mass index; but,
14 again, as I said before, it's a very weak part
15 of assessing cardiovascular risk.

16 Q. And is the recommended body mass
17 index the same for males and females?

18 A. As far as I know, the number
19 thirty is used for both.

20 Q. So anything below thirty, that's
21 the recommended level male or female; is that
22 your testimony?

23 A. It's a goal, okay.

24 Q. And then anything above thirty,
25 male or female, obese; is that your testimony?

1 A. Up to a point. It's usually
2 divided up into mild, moderate, and severe.
3 The number thirty is usually used as a cutoff.

4 Q. Okay. Do you know whether average
5 birth weights for males and females are the
6 same?

7 MS. INGELHART: Objection. Calls for
8 expert testimony, speculation. You can answer.

9 THE WITNESS: It's a short answer. I
10 have no idea.

11 BY MR. BLAKE:

12 Q. You have no idea. So if they're
13 not the same, all right, assuming that the
14 average male and the average female when born
15 are different weights, would you agree that
16 it's important to track those birth weights and
17 childhood weights separately in order to
18 determine whether or not such children are
19 falling out of the normal or healthy range?

20 MS. INGELHART: Objection. Calls for
21 speculation, hypothetical. You can answer.

22 THE WITNESS: Again, I'm not a
23 pediatrician. You're asking me to have an opinion
24 about something I have no knowledge of.

25 BY MR. BLAKE:

1 Q. All right. So you have no opinion
2 one way or the other whether it's important to
3 track the sex of a child when born as part of
4 tracking their early childhood development?

5 A. Let me answer this this way.
6 There's a widespread belief that watching an
7 individual's cholesterol and diet is important
8 for preventing cardiovascular disease. In
9 fact, that's not true. What's really important
10 is controlling their particle level. So
11 there's this widespread belief that you're
12 going to provide better care by worrying about
13 somebody's cholesterol and their diet, and I
14 believe that's not true.

15 So how do I know that following a
16 child's growth chart actually, in reality,
17 makes a material difference in their care? I
18 have no way of knowing that. You're asking me
19 to speculate as if I'm some knowledgeable
20 pediatrician. If there's data to suggest if
21 you follow their growth chart that you do a
22 better job, I don't know that that's true. I
23 have no idea.

24 Q. Yeah, that's not what I'm asking
25 you. Did you have -- by the way, how many

1 children did you have?

2 A. Two.

3 Q. And do you have a boy and a girl,
4 a girl and a boy, two girls, two boys?

5 A. Boy and a girl.

6 Q. And do you recall whether or not
7 they had the same growth chart?

8 A. No.

9 Q. Okay. Would it surprise you if
10 there were different growth charts for a boy
11 and a girl?

12 A. I don't remember anything about
13 their growth charts.

14 Q. I asked you whether it would
15 surprise you if there was different growth
16 charts for boys and girls?

17 A. No, it wouldn't surprise me.

18 Q. And would it surprise you if boys
19 and girls grew at different rates?

20 A. I presume they do.

21 Q. Right. Boys are taller,
22 generally, right?

23 A. Generally, but there are a lot of
24 tall girls.

25 Q. There are a lot of tall girls, and

1 there's also a period of time in childhood
2 development where girls actually tend to be a
3 little taller than boys, right?

4 MS. INGELHART: Objection. This
5 calls for expert testimony. She's not a
6 pediatrician. She's testified to this repeatedly.
7 We keep beating this question down. You ask it in
8 various ways, but it's the same question over and
9 over again. She continues to tell you she's not
10 an expert in this field. You can answer.

11 MR. BLAKE: Got it. I would
12 appreciate if you just limit the speaking
13 objections. I'm not asking for expert testimony.
14 I'll give you a standing objection to anything
15 that calls for expert testimony, and I think the
16 witness has testified she's not an expert. You
17 know, we can have a dispute about whether or not
18 we think knowing that boys and girls are different
19 sizes requires expert testimony or if that's
20 something that's generally observable to the lay
21 witness, particularly a parent who's had both a
22 boy and a girl, but, you know, I don't think this
23 is the proper form for that.

24 THE WITNESS: I'm sixty-eight years
25 old, okay. You're talking about things with my

1 children that were more than fifty years ago. I
2 don't remember those things.

3 BY MR. BLAKE:

4 Q. Okay. Do you understand how a
5 person's gender identity is determined?

6 A. No.

7 Q. What is your understanding of a
8 person's gender identity?

9 A. It's their -- the way it's often
10 phrased is deep set internal belief about
11 whether or not they are male or female in their
12 essence, the way in which they need to express
13 themselves.

14 Q. Does that have anything to do with
15 what a person's karyotype is?

16 A. I have no idea.

17 Q. If a physician found you
18 unconscious -- and not you individually but
19 just like found an individual unconscious --
20 let me start again.

21 If a physician found someone
22 unconscious on the street, there aren't any
23 tests that that physician could perform to
24 determine whether or not that person was
25 transgender, right?

1 A. That's an incredibly vague
2 question because you're lumping people who are
3 transgender who are at widely ends of a
4 spectrum of physical transitions. You could be
5 talking about someone who is just beginning the
6 process who hasn't taken any physical steps to
7 change their appearance all the way through to
8 someone who is totally physically transitioned,
9 has had gender confirmation surgery, has breast
10 implants. For that person, an average
11 gynecologist is going to identify the
12 individual as female. But to the person who is
13 just starting, well, there's nothing really to
14 look at. So you're asking me to talk about an
15 infinite spectrum of different people so I
16 don't know how to answer that.

17 Q. You're talking about a physician
18 who would find someone, this hypothetical
19 unconscious person, and identify whether or not
20 they were transgender based on looking at their
21 external genitalia, right?

22 A. Their breast, their hair, their
23 clothing, their makeup, how they're dressed.

24 Q. That just tells you what their
25 outward physical appearance is, that doesn't

1 say anything about whether or not they're a
2 transgender individual, right?

3 A. Isn't that how we normally
4 identify people on the street anyway, we look
5 at how they're dressed and what their hairstyle
6 looks like, their makeup, and whether or not
7 they're carrying a purse. That's how we assess
8 whether they're male or female. We don't ask
9 them to lift their skirt up and show us their
10 genitals. How do we know otherwise? I'm not
11 sure what your point is.

12 Q. Could that same physician identify
13 a person's sex based on their genitals?

14 A. I don't know. What do you mean by
15 sex?

16 Q. Well, we were talking about how
17 biological sex is recognized in the medical
18 field and you said you didn't know how that was
19 done, right?

20 A. Not -- not reliably. And, again,
21 my definition of sex is gender identity, yours
22 isn't, okay. So to identify somebody's gender
23 identity, I don't know that there's a test for
24 that.

25 Q. And that's my question, right,

1 that you couldn't -- you couldn't come upon an
2 unconscious person and determine through any
3 sort of test or inspection, visual or
4 otherwise, what their gender identity is,
5 right?

6 A. But isn't their gender identity
7 something inside their head? So how are you
8 going to identify something that's inside their
9 head? You don't have a test for that. You
10 don't have a helmet that we can put on their
11 head and say, oh, you're a transgender or
12 you're not.

13 Q. And gender identity is not
14 correlated with any specific biological
15 response, right?

16 A. Well, look, again, I'm not an
17 expert, but from my cursory reading of the
18 literature, there have been various studies
19 done to suggest that there are biological
20 correlates of individuals who are transgender.

21 There are abnormal brain wave
22 studies. I believe I read somewhere that the
23 incidents of left-handedness in transgender
24 people is approximately forty percent and in
25 the population at large is about ten percent.

1 So there is strong evidence that there is a
2 link between people's brains and their gender
3 identity because that kind of studies or work
4 is in its infancy. And, again, I'm definitely
5 not an expert about those kinds of studies.

6 Q. Right. You're not a molecular
7 geneticist, right?

8 A. No way.

9 Q. And you don't have any special
10 expertise in the neurology -- field of
11 neurology, right?

12 A. No, nothing like that.

13 Q. And this brain study you're
14 referring to, is that the MRI brain study?

15 A. Yeah. I think there are others,
16 but, again, I'm not -- I'm just aware that
17 there are such studies, but I'm not -- I
18 couldn't tell you the details of how they were
19 done or what the ultimate results were of their
20 research, I just know that there have been such
21 studies.

22 Q. You haven't looked at any
23 particulars about the study and the number of
24 individuals who are associated with the study,
25 right?

1 A. No, nothing like that.

2 Q. And you haven't conducted an
3 analysis of the impact of selection bias on
4 that study, right?

5 A. Not in the slightest.

6 Q. You don't know what
7 neuroplasticity is?

8 A. No.

9 Q. You don't know whether or not that
10 study controlled for neuroplasticity?

11 A. Never heard of it.

12 Q. Sex, as I've been referring to
13 related to the karyotype of XX and XY, that is
14 correlated with a biological response, right?

15 A. I don't know how to answer that.
16 That's really kind of vague. I'm not sure I
17 know what you're referring to.

18 Q. Okay. You don't know whether or
19 not someone's sex at birth as identified by
20 their external genitalia and as related in
21 normal circumstances to their karyotype,
22 whether that has any biological response?

23 A. I'm sorry, what --

24 MS. INGELHART: Objection. Vague.
25 You can answer.

1 THE WITNESS: What do you mean by
2 biological response?

3 BY MR. BLAKE:

4 Q. Yeah. So outcomes related to
5 medical treatments or growth patterns or
6 hormone levels, anything of that nature, you're
7 not aware?

8 A. No, I am not aware. I have no
9 idea.

10 MR. BLAKE: Can we take a quick
11 break?

12 MS. INGELHART: Yes.

13 MR. BLAKE: Thanks.

14 (Pause in proceedings.)

15 BY MR. BLAKE:

16 Q. All right. Do you hold yourself
17 out as a transgender individual to the public?

18 A. No.

19 Q. Are you part of any groups
20 associated with transgender individuals?

21 A. No. I want to qualify that. [REDACTED]

22 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

23 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

24 [REDACTED]

25 Q. What is [REDACTED]

1 A. I believe it's [REDACTED] [REDACTED]
2 [REDACTED] [REDACTED] [REDACTED] [REDACTED]nder
3 [REDACTED]

4 Q. And how does one obtain membership
5 to that organization?

6 A. Apply online.

7 Q. Is there like a fee?

8 A. Yeah. It wasn't huge.

9 Q. And do you have to have any
10 special medical or other credentials to join?

11 A. I don't believe so.

12 Q. So any individual who's interested
13 in transgender issues can go online, fill out
14 some information, and pay a fee and join?

15 A. They have a newsletter that they
16 send out.

17 Q. They have a newsletter?

18 A. Yes. Pretty much anybody can
19 join.

20 Q. Okay.

21 A. But I do not belong to any
22 organizations.

23 Q. How many people have you told that
24 you are transgender?

25 A. Good grief. Probably five or ten

1 that I've actually told outright.

2 Q. Is that primarily family and
3 friends?

4 A. Correct. A few people at
5 [REDACTED] [REDACTED] back in [REDACTED] [REDACTED] when I
6 was transitioning.

7 Q. And is that when you -- where you
8 underwent some degree of medical treatment to
9 transition from male to female?

10 A. Correct.

11 Q. Those were just primarily medical
12 providers?

13 A. Well, I was transitioning so I was
14 starting to change my outward gender
15 appearance, and it was appropriate for me to go
16 and talk to the administration about what was
17 happening so I certainly had to reveal to them
18 the nature of the situation.

19 Q. Oh, this is where you worked?
20 This is the facility where you worked?

21 A. Yes.

22 Q. I understand. I was thinking that
23 this is where you actually were having the
24 transition occur.

25 A. Well --

1 MS. INGELHART: Objection. Vague.

2 THE WITNESS: Let me help you. I had
3 a private office. I saw patients in my private
4 office. When they needed advanced care, the
5 hospital that I was using for their cursory care
6 was this hospital so I had admitting privileges
7 and privileges to use their [REDACTED]
8 [REDACTED] laboratory. I had a staff
9 appointment and so I wasn't employed by them, I
10 was self-employed, but, again, I'm using their
11 facilities. It was necessary for me to divulge to
12 them what was happening to me.

13 BY MR. BLAKE:

14 Q. Okay. How many people have found
15 out that you are a transgender individual due
16 to your birth certificate?

17 A. I have no idea.

18 Q. Do you think it's --

19 A. Honestly.

20 Q. -- five, ten, fifteen?

21 A. Well, here's the problem. I
22 relocated to this hospital in [REDACTED] My
23 status as a transgender individual was
24 disclosed against my knowledge by the human
25 resources director at the hospital who decided

1 to have a town hall meeting with both the [REDACTED]
2 [REDACTED] staff and the card -- coronary care unit
3 staff and divulge my status as a transgender
4 individual. She had access to my -- all of the
5 documents that had been submitted to the
6 hospital for my application for staff
7 privileges. I don't know whether or not she
8 was looking at my birth certificate or some
9 other document, but basically she outed me to
10 the entire hospital.

11 Q. Did you have to hand over --

12 A. So --

13 Q. Go ahead.

14 A. I'm sorry.

15 Q. Sorry. If you're not finished,
16 please continue.

17 A. That's probably enough
18 explanation.

19 Q. So you provided your birth
20 certificate to the HR person at the new
21 hospital in [REDACTED]?

22 A. As far as I recall.

23 Q. You don't -- you don't know for
24 certain that you actually had to turn over your
25 birth certificate?

1 A. You're asking me to recall what
2 was in a packet five years -- well, four and a
3 half years ago, as to exactly what document was
4 in it, okay, and I don't recall. I don't know
5 if it had the birth certificate, what was all
6 in it, but they knew.

7 Q. Well, your claim is based on
8 part -- the claims against ODH, that you were
9 forced to disclose your birth certificate in
10 circumstances like receiving certain
11 identification and employment, and so it's
12 critical for ODH to understand whether or not
13 you have actually been required to turn over
14 your birth certificate in those contexts. And
15 if I understand, your testimony right now is
16 that you do not recall whether or not you were
17 required to disclose your birth certificate as
18 part of your employment onboarding with the
19 hospital in [REDACTED]; is that accurate?

20 A. That's accurate. I can tell you,
21 though, that I was required to provide my birth
22 certificate when I was trying to get my Social
23 Security Administration identifier changed.

24 Q. Yeah, we'll get to the Social
25 Security Administration circumstance here in a

1 minute. I'm just trying to tie up the loose
2 ends on your employment with [REDACTED].

3 So do you recall prior to turning
4 in your information to HR at the [REDACTED]
5 Hospital whether you had to obtain a certified
6 copy of your birth certificate.

7 A. No, I don't recall.

8 Q. Do you recall specifically an
9 instance where you had to produce your birth
10 certificate and show it to somebody?

11 A. Again, the only specific instance
12 that I can recall where I had to do that was
13 with the Social Security Administration.

14 Q. Okay. And you don't recall any
15 other time prior to [REDACTED]-- employment at
16 [REDACTED] having to show your birth certificate
17 to any other employer, do you?

18 A. No.

19 Q. Has your disclosure of your birth
20 certificate ever led to bodily harm?

21 A. No.

22 Q. Here in Columbus we have something
23 called the Pride Festival, and among other
24 things the Pride Festival celebrates
25 transgender individuals and equality for those

1 individuals. Do you have a similar festival in
2 [REDACTED] ?

3 A. No.

4 Q. Have you ever taken part in a
5 festival like the Pride Festival?

6 A. Not to my knowledge. There could
7 be one and I don't know about it, but not to my
8 knowledge.

9 Q. Are you humiliated by your status
10 as a transgender person?

11 A. That's -- to me, that's a vague
12 question. Can you kind of pin it down a little
13 better as to --

14 Q. Sure.

15 A. You mean like in general do I feel
16 humiliated or are there specific circumstances
17 where I've been humiliated?

18 Q. Yes. Do you believe or do you
19 feel that the -- well, let's take a step back.
20 You are a transgender individual,
21 correct?

22 A. Correct.

23 Q. Does that fact humiliate you?

24 MS. INGELHART: Objection. Vague.
25 You can answer.

1 THE WITNESS: If you mean on an
2 everyday basis do I get up in the morning and say
3 I'm transgender and I feel humiliated, no.

4 BY MR. BLAKE:

5 Q. The fact that you're a transgender
6 individual does not ashame you, correct?

7 A. Correct.

8 Q. It's fair to say you're proud of
9 your status as a transgender individual, right?

10 A. I'm not sure that I would say that
11 I'm proud of it. It's something that I've
12 learned to live with.

13 Q. You claim that the Ohio Department
14 of Health discriminates against transgender
15 individuals because they are not permitted to
16 change the sex identifier on their birth
17 certificate, right?

18 A. I'm sorry, I didn't hear your
19 whole question. Would you please repeat it?

20 Q. Yeah. You claim that ODH
21 discriminates against transgender individuals
22 because they are not permitted to change the
23 sex identifier on their birth certificate,
24 right?

25 A. Yes.

1 Q. Are you aware of any laws in Ohio
2 related to birth certificates that mention
3 transgender individuals?

4 MS. INGELHART: Objection. Legal
5 conclusion. You can answer.

6 THE WITNESS: I am not a
7 knowledgeable expert of Ohio state laws.

8 BY MR. BLAKE:

9 Q. Are you aware of any laws in Ohio
10 regarding birth certificates that make any
11 mention of gender?

12 MS. INGELHART: Objection. Legal
13 conclusion. You can answer.

14 THE WITNESS: Again, I'm not a lawyer
15 so I couldn't answer that.

16 BY MR. BLAKE:

17 Q. Do you know whether or not Ohio
18 law permits anyone, regardless of gender, to
19 change their sex marker on their birth
20 certificate?

21 A. Again --

22 MS. INGELHART: Yeah, objection.
23 Legal conclusion. You can answer.

24 THE WITNESS: Same thing, I'm just
25 not an expert on Ohio state law.

1 BY MR. BLAKE:

2 Q. But it's your understanding that
3 ODH will not change a birth certificate based
4 on a gender identity, right?

5 A. That is my understanding.

6 Q. And the law applies whether a
7 person is transgender or a cisgender, right?

8 A. Again, you're asking me to be
9 knowledgeable about all the circumstances that
10 would affect this topic in the state of Ohio
11 and I am not an attorney.

12 Q. Do you know when Ohio's laws
13 related to birth certificates were enacted?

14 A. I have no idea.

15 Q. Do you know who sponsored the
16 bill?

17 A. No.

18 Q. How the bill was received in
19 committee?

20 A. Unfortunately, no.

21 Q. Whether it was started in the
22 House or the Senate?

23 A. No idea.

24 Q. Whether there was any testimony
25 regarding the bill before any committee?

1 A. No.

2 Q. Whether there was any evidence or
3 argument presented on the floor of either
4 chamber regarding the bill?

5 A. No, no idea.

6 Q. Are you aware of any legislative
7 purpose behind Ohio's laws related to birth
8 certificates?

9 A. No.

10 Q. Do you have any evidence at all
11 that Ohio's laws regarding the amendment of its
12 birth records were motivated by any hatred,
13 animus, or ill will toward transgender
14 individuals?

15 MR. BLAKE: Objection. Calls for a
16 legal conclusion. You can answer.

17 THE WITNESS: I can? I have no idea
18 what the motives were of the various legislatures
19 who passed that legislation. I have no idea.

20 (Thereupon, Defendants' Exhibit 8,
21 birth certificate of Jane Doe, was marked for
22 purposes of identification.)

23 BY MR. BLAKE:

24 Q. Okay. I'm going to go to Exhibit
25 8, which was previously marked. And I'll just

1 note for the record that this Defendants'
2 Exhibit 8 is marked attorney's eyes only. Have
3 you seen this document before?

4 A. Of course.

5 Q. Okay. What is this document?

6 A. Birth certificate.

7 Q. Who's birth certificate?

8 A. For me. Mine. This is my birth
9 certificate --

10 Q. Okay.

11 A. -- in the state of Ohio.

12 Q. Do you know what a public record
13 is?

14 MS. INGELHART: Objection. Legal
15 conclusion. You can answer.

16 THE WITNESS: I don't know what the
17 technical definition is of a public record. I
18 believe it relates to whether or not it is
19 accessible by anybody in the public.

20 BY MR. BLAKE:

21 Q. And do you know whether or not
22 anyone can go to any county health department
23 in Ohio and as long as they know your name and
24 approximate birth year, they can request your
25 birth certificate?

1 A. Apparently that's true.

2 Q. The birth certificate indicates
3 sex is male, right, in block number four?

4 MS. INGELHART: Objection. You can
5 answer.

6 THE WITNESS: Yes, that's what's
7 written there.

8 BY MR. BLAKE:

9 Q. And that information was recorded
10 by ODH based on information provided by the
11 medical provider at or near the time of your
12 birth, right?

13 A. Appears to be true.

14 Q. Do you have any evidence to
15 contradict that your sex was recorded as male
16 by ODH based on information provided by the
17 medical provider at or near the time of your
18 birth?

19 A. I'm sorry, that was very
20 confusing.

21 Q. Yeah. I'm asking whether -- you
22 said that it appears to be true, and I'm just
23 trying to understand whether or not you have
24 any evidence to contradict that your sex was
25 recorded as male by ODH based on information

1 provided by the medical provider at or near the
2 time of birth?

3 A. I have no evidence that it was
4 anything other than what's written.

5 Q. But nonetheless, as you've
6 testified earlier, you believe that it was
7 inaccurate for the medical provider to record
8 your sex as male at the time of birth, right?

9 A. Again, because my contention is
10 that sex is one's gender identity and that's
11 something you can't determine at the time of
12 birth, and so I don't think that this was an
13 accurate inscription. I think that it
14 represents something that is not what I wrote.

15 Q. Gender identity, those words don't
16 appear on this record, right?

17 A. Correct.

18 Q. Gender doesn't appear on this
19 record, right?

20 MS. INGELHART: Objection. You can
21 answer.

22 THE WITNESS: No, it does not.

23 BY MR. BLAKE:

24 Q. Okay. And as you've testified
25 before, you're not aware of any tests that can

1 be conducted on a person at the time of their
2 birth to determine their gender identity,
3 right?

4 A. Correct.

5 Q. And also as you testified before,
6 what the medical provider likely did in
7 determining your sex was conduct a cursory look
8 at the external genitalia, right?

9 A. Correct.

10 Q. Wrote down male, right?

11 A. Correct.

12 Q. [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 MS. INGELHART: Objection. You can
16 answer.

17 THE WITNESS: I think that, again,
18 from my point of view, this inscription here is
19 not possible for somebody to accurate record
20 someone's gender identity at the time of birth.
21 There's no provision here for an individual to
22 change their gender marker on the document. The
23 State of Ohio is one of only two remaining states
24 that refuses to allow an individual to change
25 their birth certificate marker. I don't

1 understand why.

2 BY MR. BLAKE:

3 Q. Well, the record of live birth
4 doesn't record a person's gender, it records a
5 person's sex, right?

6 A. I think it should be recording
7 their gender identity, it's just not -- we've
8 went over this before. I think it's not an
9 accurate recording of someone's gender
10 identity.

11 Q. Do you believe that the medical
12 provider should have reported female under the
13 sex designation on your birth record?

14 A. I think there should be an
15 opportunity for someone to change this.

16 Q. Okay. But you don't believe that
17 the medical provider should have wrote --
18 recorded female at the time of your birth,
19 right? That's not what you believe, right?

20 A. Correct.

21 Q. Okay. So based on the information
22 available to the medical provider at the time
23 of your birth, you would agree that your birth
24 record is accurate, right?

25 MS. INGELHART: Objection.

1 Calls for a legal conclusion and
2 vague. You can answer.

3 THE WITNESS: Again, we're beating
4 around the same topic here. I don't think the
5 gender marker inscription here is accurate. Okay.
6 There should be a mechanism for dealing with
7 inaccuracies on a document of this nature and so I
8 think it was his best attempt to make an
9 assessment, but, again, I don't think it was
10 correct at the time. He had no way of knowing
11 that.

12 BY MR. BLAKE:

13 Q. Do you think the medical provider
14 inaccurately or incorrectly identified your sex
15 at the time of birth?

16 A. Based on my definition of sex,
17 which is gender identity, okay, it subsequently
18 turned out to be incorrect, but I don't think
19 he had any way of knowing that at the time.

20 Q. At the time, like I said, based on
21 the information he had, that was an accurate
22 determination of your sex at birth, correct?

23 A. I think other than the stipulation
24 about the definition of sex, I think we're
25 agreeing.

1 Q. Okay. Are you aware of any forms
2 or records maintained by the Ohio Department of
3 Health or any other agency in Ohio that records
4 or tracks a person's gender or gender identity?

5 MS. INGELHART: Objection. Legal
6 conclusion, but you can answer.

7 THE WITNESS: I have no idea.

8 BY MR. BLAKE:

9 Q. Your gender identity is female,
10 right?

11 A. Yes.

12 [REDACTED]
13 [REDACTED]

14 MS. INGELHART: Objection. Expert.
15 You can answer.

16 [REDACTED] [REDACTED]
17 [REDACTED] [REDACTED]
18 [REDACTED] [REDACTED]

19 BY MR. BLAKE:

20 Q. Whatever your chromosomes are,
21 they've been the same since birth, right?

22 A. Yes, we can assume that.

23 Q. You're not aware of any procedure
24 by which a person can change their chromosomes,
25 right?

1 A. Correct.

2 Q. When did you determine that your
3 gender identity did not match your biological
4 sex?

5 A. Honestly, I'm not sure that I
6 could reliably answer that. I was aware of
7 identifying as a female when I was a young
8 child, but how early that started to occur, I
9 don't really recall.

10 MR. BLAKE: Counsel, can you please
11 hand the witness Defendants' Exhibit 5?

12 BY MR. BLAKE:

13 Q. Let me know when you have that in
14 front of you?

15 A. I have it.

16 Q. And if you turn -- what has been
17 previously marked as Defendants' Exhibit 5 are
18 plaintiffs' answers to defendants' first set of
19 interrogatories, first requests for admission,
20 and first requests for production of documents.
21 Have you seen this document before?

22 A. Yes.

23 Q. All right. And if you turn to
24 page three, interrogatory number two at the
25 bottom half of the page states for each

1 plaintiff, identify the date he or she
2 understood that his or her biological sex did
3 not align with his or her gender identity. If
4 an exact date is not determinable, please
5 identify an approximate date. Do you see that?

6 A. Yes, I do.

7 Q. And each of the plaintiffs
8 responded in turn and your response is recorded
9 on the following page, page four. At the
10 bottom it says Jane Doe came to understand
11 herself as a girl when she was eight or nine
12 years old but did not ever identify as a boy or
13 man. She did not have the terminology for
14 transgender identity until she was in her late
15 fifties. Do you see that?

16 A. I'm looking for it. Yes.

17 Q. All right. So does that refresh
18 your recollection as to when you determined
19 that your gender did not match your biological
20 sex?

21 A. Listen, again, we're talking about
22 something, you know, from over fifty years ago.
23 I don't have an exact recollection of what I
24 felt or thought. I can tell you that when I
25 was a young child, I routinely had fantasies in

1 which I identified as a girl. These fantasies
2 began sometime after the age of five and
3 probably before the age of ten, and they've
4 been with me my whole life.

5 Q. So are you saying -- are you
6 agreeing with your statement --

7 A. Yes.

8 Q. -- in the interrogatories that it
9 was around the age of eight or nine or are you
10 disagreeing with that statement?

11 A. I believe it was around eight or
12 nine, but, you know, I can't tell you exactly
13 the year. You know, it's hard, okay.

14 Q. Okay.

15 A. But to the best of my
16 recollection, it was around eight or nine.

17 Q. Okay. Great. And since that time
18 have you identified as a female?

19 A. Yes.

20 Q. Since --

21 A. Well --

22 Q. Go ahead.

23 A. Leave it -- that's fine.

24 Q. All right. Since the age of eight
25 or nine have you ever presented yourself as a

1 male to any friends, family, or the public?

2 MS. INGELHART: Objection. Vague.

3 You can answer.

4 THE WITNESS: I identified myself as
5 female in my mind, but I was not outwardly
6 presenting myself as female.

7 BY MR. BLAKE:

8 Q. So, in fact --

9 A. That didn't happen until roughly
10 about five, six years ago.

11 Q. Yeah. So, in fact, for the first
12 sixty-plus years of your life you actually
13 lived as a male, right?

14 A. Correct.

15 Q. So when you had to show your birth
16 certificate to, say, get a passport or some
17 other governmental function, your birth
18 certificate said male, your driver's license
19 said male, you presented as a male, so there
20 was no incongruence, right?

21 MS. INGELHART: Objection. Vague.

22 You can answer.

23 THE WITNESS: There was an
24 incongruence in my mind but not physically.

25 BY MR. BLAKE:

1 Q. And not with any of your other
2 documents, right?

3 A. Correct.

4 Q. It was only within the last few
5 years, like you said, the last four or five
6 years, that you started to live your life
7 openly as a female, right?

8 A. Yes. I had a very bad childhood.
9 I had a father who was a dictatorial tyrant who
10 was physically abusive. It was totally
11 unacceptable for me to have -- let any of my
12 feelings of being female out with him. I think
13 he would have killed me. I repressed it.

14 Q. And then you got married, right?

15 A. Uh-huh.

16 Q. And you got married to a female?

17 A. Uh-huh. Yes.

18 Q. And you -- I mean, I assume she
19 believed she was marrying a male, right?

20 A. Yes.

21 Q. In fact, you had kids together?

22 A. Yes.

23 Q. Which is not an unusual thing for
24 males and females to do when they're married,
25 right?

1 A. Yes.

2 Q. And I assume you were a father to
3 your children?

4 A. Yes.

5 Q. They called you dad, right?

6 A. Yes.

7 Q. But then many years afterwards,
8 all right, only just recently, you decided to
9 start living your life as a female, right?

10 A. Yes.

11 Q. And it's only now, after you
12 decided to start living your life as a female
13 within the last three, four, or five years,
14 that you contend that your birth certificate is
15 somehow inaccurate, right?

16 A. Correct.

17 Q. When was the first time you
18 believed that your birth certificate became
19 inaccurate?

20 A. Probably about five or six years
21 ago.

22 Q. Are you familiar with the term
23 gender dysphoria?

24 A. Yes.

25 Q. You understand that that's a

1 clinical diagnosis where a person's biological
2 sex does not coincide with his or her gender
3 identity, right?

4 A. Yes.

5 Q. And to the best of your
6 recollection, you received a diagnosis of
7 gender dysphoria in approximately 2013, 2014,
8 right?

9 A. Correct.

10 Q. Does that coincide with this, you
11 know, time where you first started to believe
12 that your birth certificate was inaccurate?

13 A. Yes.

14 Q. At that time you were
15 approximately sixty-one or sixty-two; is that
16 right?

17 A. Approximately, yes.

18 Q. Before your diagnosis had you
19 heard of gender dysphoria?

20 A. No.

21 Q. All right. Regardless of whether
22 or not you had heard of gender dysphoria,
23 that's about the same time that you decided to
24 start living your life as a female, right?

25 A. Yes.

1 Q. If your biological sex and gender
2 identity do not match, all right, as per your
3 diagnosis of having gender dysphoria, that
4 means that biological sex and gender identity
5 are different, right?

6 MS. INGELHART: Objection. You can
7 answer.

8 THE WITNESS: I think the answer was
9 that my gender identity has always been constant
10 and it did not match my physical appearance.

11 BY MR. BLAKE:

12 Q. All right. So --

13 A. And I -- go ahead.

14 Q. No. So you were going to say
15 something. Go ahead.

16 A. No, I think -- I think I answered
17 what you wanted.

18 Q. Okay. Well, logically, your
19 gender identity and your biological sex, if
20 they're incongruent, they can't be the same
21 thing, right?

22 MS. INGELHART: Objection. Vague.
23 You can answer.

24 THE WITNESS: I'm not sure I
25 understand that question. I believe my gender

1 identity has been constant through my life, okay,
2 I just -- a lot of it was suppressed. When it was
3 no longer being suppressed, I had to make things
4 congruent.

5 BY MR. BLAKE:

6 Q. Yeah. I'm not disagreeing with
7 you that your gender identity has been constant
8 throughout your life.

9 A. Okay.

10 Q. What I'm trying to understand is
11 if you have this diagnosis of gender dysphoria,
12 which you agree occurs when a person's
13 biological sex does not match his or her gender
14 identity, logically --

15 MS. INGELHART: Objection --

16 BY MR. BLAKE:

17 Q. -- two things which are
18 incongruent, in this case gender identity and
19 biological sex, cannot be the same, right?

20 MS. INGELHART: Objection. Sorry.
21 Objection. It misstates prior testimony such that
22 it's in conflict with the standing objection as
23 well. You can answer.

24 THE WITNESS: I do not really know
25 how to answer your question. I repressed my

1 gender identity for many years. I was not
2 experiencing gender dysphoria during all of that
3 time. And then at a time roughly around 2013,
4 2014, for reasons that I'm still not sure of, I
5 stopped repressing my awareness of my gender
6 identity and at that point my physical appearance
7 did not match my gender identity and I developed
8 gender dysphoria and I felt compelled to take
9 steps to alter my physical appearance.

10 BY MR. BLAKE:

11 Q. Because your biological sex and
12 your gender identity no longer coincided,
13 right?

14 A. Again, I believe that my
15 biological sex and my gender identity are
16 really the same. Okay. You're trying to make
17 a distinction that I can't agree with.

18 Q. Well, it's right there in the
19 diagnosis of gender dysphoria, it's a clinical
20 diagnosis where a person's biological sex does
21 not match his or her gender identity, you agree
22 with that, right?

23 MS. INGELHART: Objection. Asked and
24 answered. Expert testimony.

25 THE WITNESS: Again, I don't know how

1 to answer that. Okay?

2 BY MR. BLAKE:

3 Q. What is your definition of gender
4 dysphoria?

5 A. What's the definition of gender
6 dysphoria? I don't have a definition of gender
7 dysphoria. I don't walk around with
8 definitions of terms like this in my head. I'm
9 not an expert in this field.

10 Q. All right. But you've been
11 diagnosed with that, right?

12 A. I had a specialist in [REDACTED] [REDACTED] who
13 said that that was what I had.

14 Q. At the time --

15 A. I'm not that specialist, okay. I
16 know what I felt, but the definition of it, I
17 wasn't schooled in it.

18 Q. At the time you received that
19 diagnosis, what was your understanding of what
20 that diagnosis meant?

21 A. That I was severely distressed
22 over the fact that I did not appear to be
23 female.

24 Q. Do you know one way or the other
25 whether a diagnosis of gender dysphoria has

1 anything to do with incongruence between one's
2 gender identity and their biological sex?

3 A. Again, you're using a term that I
4 don't understand. Biological sex, I don't know
5 what that really means so I don't know how to
6 answer your question.

7 Q. The sex identified on your birth
8 certificate is male, right?

9 A. Yes.

10 Q. Does your gender dysphoria relate
11 to your gender identity as female being
12 incongruent with the sex identified on your
13 birth certificate?

14 A. Again, I don't know this gender
15 identifier here, this is based on the gen --
16 one's genitalia, okay, not on the basis of my
17 gender identity.

18 Q. All right. Those are -- you would
19 agree that those are two different things,
20 right?

21 A. Yes.

22 Q. You have a driver's license,
23 right?

24 A. Yes.

25 Q. How often do you update that?

1 A. I think it's every four years,
2 five years.

3 Q. Have you ever changed your hair
4 color?

5 A. Not in about probably six years.

6 Q. Okay. So six years ago what hair
7 color did you have on your driver's license?

8 A. Brown.

9 Q. And now I assume you've recorded
10 blond?

11 A. Yes.

12 Q. Ever change your weight on your
13 driver's license?

14 A. I have not in a long time.

15 Q. But you've done that before,
16 right?

17 A. I haven't changed anything on it
18 since I moved to [REDACTED] [REDACTED].

19 Q. Four years ago?

20 A. Yes.

21 Q. And I assume you changed your
22 address because you got a [REDACTED] [REDACTED] driver's
23 license as opposed to a [REDACTED] [REDACTED] driver's
24 license, right?

25 A. [REDACTED] [REDACTED] actually.

1 Q. [REDACTED] driver's license, okay.
2 Very good. Have you ever been pulled over,
3 traffic stop?

4 A. Yes.

5 Q. And have you ever had to show the
6 police officer your driver's license?

7 A. Of course.

8 Q. Did they ever ask for your birth
9 certificate?

10 A. No.

11 Q. Is it your understanding that the
12 driver's license needs to be current so that
13 law enforcement can do its job? Right?

14 A. Yes.

15 Q. Did you ever use your birth
16 certificate to buy beer or alcohol or anything
17 like that?

18 A. No.

19 Q. What about get into a bar or a
20 club or anything like that?

21 A. Birth certificate? No.

22 Q. Have you ever used your birth
23 certificate to verify a credit card purchase at
24 the grocery store or department store?

25 A. No. My birth certificate stays at

1 home in a drawer.

2 Q. You don't carry your birth
3 certificate with you, right?

4 A. Correct.

5 Q. The driver's license has a much
6 different purpose than a birth certificate,
7 right?

8 MS. INGELHART: Objection. Calls for
9 a legal conclusion, but you can answer.

10 THE WITNESS: I suppose so. I'm not
11 sure exactly what you're asking about it.

12 BY MR. BLAKE:

13 Q. Well, you've used your driver's
14 license for everyday identification and, you
15 know, in instances where you need to verify
16 your identity, right? Right?

17 A. I said sure. I don't think you
18 heard me.

19 Q. Sorry. I didn't hear you.
20 Whereas a birth certificate is not used for,
21 you know, everyday identification, right?

22 MS. INGELHART: Objection. Vague,
23 legal -- calls for a legal conclusion. You can
24 answer.

25 THE WITNESS: I suppose I could, but

1 I'm not in the habit of carrying my birth
2 certificate around.

3 BY MR. BLAKE:

4 Q. Do you know anyone who does that?

5 MS. INGELHART: Objection. Calls for
6 speculation. You can answer.

7 THE WITNESS: No.

8 BY MR. BLAKE:

9 Q. I'm going to turn to Exhibit 2.
10 You've just been handed a document previously
11 marked as Defendants' Exhibit 2, which is a
12 copy of the complaint you filed in this case.
13 You recognize this document?

14 A. Yes.

15 Q. I'm going to ask you to turn to
16 Paragraph 83 which is on page eighteen of this
17 document. Let me know when you're there.

18 A. I'm sorry, which page?

19 Q. Eighteen.

20 A. Okay.

21 Q. All right. And if you look at
22 Paragraph 83, it says Dr. Doe is aware of the
23 high incidents of harassment, discrimination,
24 and violence directed at transgender people.
25 She has been harassed and discriminated against

1 as a transgender person herself in the past,
2 including verbal harassment in her workplace.
3 Do you see that?

4 A. Yes, I do.

5 Q. How many times have you been
6 verbally harassed in the workplace due to your
7 status as a transgender individual?

8 A. Yes.

9 Q. No, how many times?

10 A. Oh, fairly constant. I'm not sure
11 I could put a number on it. The place where I
12 currently work, there have been a small
13 collection of physicians there who are in the
14 habit of discussing my status as a transgender
15 person behind my back to anybody who will
16 listen, and I get reports of this behavior from
17 other staff members that it's ongoing. I have
18 filed over the past four years several
19 complaints with the administration over it.

20 Q. How did those doctors, those
21 colleagues of yours find out that you were a
22 transgender individual?

23 A. Well, as I told you before, before
24 I came to the hospital the human resources
25 director decided to conduct a town meeting for

1 both the cardiac [REDACTED] [REDACTED] and coronary care
2 unit to discuss with them the fact that a
3 transgender cardiologist was coming to work at
4 the hospital. So she probably informed about
5 fifty people of my status as a transgender
6 individual, and I'm sure by word of mouth these
7 physicians became aware of this.

8 Q. So that's your -- your
9 understanding is that your colleagues at the
10 hospital learned of your transgender status
11 from the human resources individual; is that
12 right?

13 A. Ultimately, yes, that was the
14 original source.

15 Q. But as you testified, you can't be
16 certain or you don't recall whether or not you
17 actually provided your birth certificate to
18 that human resources individual, right?

19 A. I didn't provide anything to the
20 human resources individual. I provided
21 documents to the hospital administration and
22 told them that my gender identity was a matter
23 of something that I did not want made public
24 within the institution, that I considered it as
25 protected health information, and they violated

1 my confidant.

2 Q. So you provided certain
3 information to the administrative component of
4 the hospital, but you don't recall one way or
5 the other whether you provided your birth
6 certificate to them, right?

7 A. Correct. Yes.

8 Q. But you do recall discussing with
9 them certain aspects regarding your gender
10 identity, right?

11 A. When you're a physician, the paper
12 trail behind you is enormous. There was no way
13 that I could hide my past history of who I am
14 with the hospital. That would be impossible.

15 Q. Right, because that information is
16 probably reflected on things like your, you
17 know, license -- your medical license
18 information, right?

19 A. Even before that, pretty much
20 anyplace where you're applying for privileges
21 or licensing or for malpractice insurance, one
22 of the questions on the forms is have you ever
23 practiced with any other name.

24 Q. And then based on the name change,
25 it's clear to anybody who knows names that you

1 used to have a male name and then later had a
2 female name, right?

3 A. My prior name was quite masculine.

4 Q. Right. And your current name is
5 not, right?

6 A. Correct.

7 Q. So it's your understanding that
8 the hospital was able to discern your gender
9 identity through the context of your name
10 change and maybe information included on your
11 license and other documents, right?

12 MS. INGELHART: Objection. Calls for
13 speculation. You can answer.

14 THE WITNESS: I talked to them about
15 my transgender status right up front when I
16 applied.

17 BY MR. BLAKE:

18 Q. Okay.

19 A. It was not something that was
20 hidden or it was divulged later. I would
21 rather have them know about this aspect of me
22 right up front because if they've got a problem
23 with it, I didn't want to waste my time.

24 Q. So prior to even providing them
25 any documents, you told them, hey, look, this

1 is who I am, I am a transgender individual,
2 right?

3 A. I had applied for approximately
4 somewhere six to eight other positions, okay,
5 during the roughly six to twelve months before
6 I relocated to find another job, and in these
7 instances, as soon as they became aware of the
8 fact that I was transgender, they basically
9 terminated their interest in me, and it became
10 obvious that the best thing to do was to inform
11 people right up front so you don't waste your
12 time.

13 Q. And that's what you did in this
14 circumstance, right?

15 A. Correct.

16 Q. So having the sex identifier
17 changed on your birth certificate would not
18 have prevented the harassment that you're
19 currently experiencing in your workplace,
20 right?

21 MS. INGELHART: Objection. Calls for
22 speculation. You can answer.

23 THE WITNESS: I doubt it. I think
24 they would have harassed me anyway.

25 BY MR. BLAKE:

1 Q. Have you taken any steps or
2 measures to pursue legal remedies against any
3 of these employers or potential employers who
4 didn't hire you based on your transgender
5 status?

6 A. You know, the reality is, is that
7 if you get involved -- as a physician, if you
8 get involved with a lawsuit with a hospital,
9 you can pretty much guarantee that you're never
10 going to get employed anywhere because
11 basically the fact that you were engaged in a
12 lawsuit with a hospital is going to be widely
13 known and they just wouldn't even talk to you.
14 So there's a huge penalty involved with
15 pursuing legal action about any of these
16 aspects of these events of discrimination. I
17 just didn't see it being worthwhile. I thought
18 it was killing -- it would kill me in terms of
19 getting further employment with somebody who
20 didn't care about it.

21 Q. But you believe you've been
22 discriminated against by these hospitals,
23 right?

24 A. I don't believe. I know.

25 Q. And you know that you've been

1 discriminated against by your colleagues that
2 you work with now, right?

3 A. Not all of them, but some of them.

4 Q. And nevertheless, though, you've
5 taken no steps to file a lawsuit against any of
6 these hospitals or colleagues, right?

7 MS. INGELHART: Objection. Asked and
8 answered.

9 THE WITNESS: Again, I was advised
10 multiple times by attorneys that it would be
11 foolish for me to initiate a lawsuit. I was not
12 guaranteed of winning such a lawsuit, and the
13 consequences of even filing one would be enormous.

14 BY MR. BLAKE:

15 Q. So the answer to that question is
16 no, right?

17 A. Correct.

18 Q. All right. Look at Paragraph 85,
19 which is the bottom paragraph on page eighteen
20 and then carries over to page nineteen of
21 Defendants' Exhibit 2. Let me know when you're
22 there.

23 A. I'm there.

24 Q. And that says -- well, instead of
25 reading it, Paragraph 85 describes an incident

1 when you attempted to have your sex changed on
2 your Social Security records, right?

3 A. Correct.

4 Q. And according to your allegation,
5 an employee at the Social Security
6 Administration loudly announced that you could
7 not change your sex simply based on your
8 say-so, right?

9 A. Yes.

10 Q. And according to your allegations,
11 that was announced in a room containing over a
12 hundred people, right?

13 A. Correct.

14 Q. Ultimately, though, the employee
15 of the Social Security Administration was
16 incorrect about changing what was required --
17 or -- yeah, about what was required to change
18 the sex on the Social Security records, right?

19 A. She was wrong. The policy had
20 been changed. The policy was available on the
21 Social Security Administration website. I had
22 a copy of the policy and they refused to look
23 at it.

24 Q. Right. The employee's comment was
25 contrary to what the Social Security

1 Administration's written policies were, right?

2 A. Yes.

3 Q. And ultimately you were able to
4 get your sex changed in your Social Security
5 records, right?

6 A. I had to go to a different Social
7 Security office.

8 Q. But you were ultimately able to
9 get it changed, right?

10 A. Ultimately, yes, but I -- that
11 experience in that Social Security office was
12 awful. I ran out of that place in tears. I
13 sat in the parking lot in my car for about
14 forty-five minutes crying. I still -- when I
15 have to think about that experience even
16 currently I get emotionally distraught.

17 Q. When you presented your birth
18 record to the Social Security Administrator --
19 or Administration, were you in any way fearful
20 that you were going to be physically harmed by
21 that employee?

22 A. They're behind a glass booth,
23 wall. I really wasn't considering being
24 harmed, but I did not think they considered the
25 fact that I was overtly humiliated.

1 Q. It's not ODH's responsibility to
2 set the guidelines for what the Social Security
3 Administration requires to change the sex on a
4 Social Security record, right?

5 MS. INGELHART: Objection. Calls for
6 speculation and legal conclusion. You can answer.

7 THE WITNESS: I would hope they would
8 be consistent with, you know, federal rules and
9 regulations and guidelines.

10 BY MR. BLAKE:

11 Q. Right. And that's not ODH's
12 responsibility to set federal rules and
13 guidelines, right?

14 A. I'm not familiar with what the
15 actual guidelines and rules are for the ODH.

16 Q. You don't believe ODH has any
17 input into what the federal government says,
18 here's what we do to update Social Security
19 records, right?

20 A. No, I don't think they're directly
21 connected.

22 Q. And you don't believe that ODH has
23 any control over whether certain employees for
24 the Social Security Administration properly
25 apply such Administration's own policies,

1 right?

2 MS. INGELHART: Objection. Calls for
3 a legal conclusion, speculation. You can answer.

4 THE WITNESS: At the time when this
5 happened, I was certainly not thinking that this
6 was, you know, the particular fault of the Ohio
7 Department of Health, except the fact that I
8 didn't have a corrected birth certificate and I
9 couldn't get one.

10 BY MR. BLAKE:

11 Q. ODH didn't instruct the employee
12 of the Social Security Administration to
13 disclose your sex, right?

14 A. Instruct them? I'm sure they had
15 no awareness that I was even coming to visit
16 them.

17 Q. Have you been required to show
18 your birth certificate in other contexts?

19 A. I was required to provide my birth
20 certificate when I had my passport updated.

21 Q. When was that?

22 A. I think it was in 2014.

23 Q. Was that before or after you
24 started living openly as a female?

25 A. I think it was during the initial

1 transition, fairly early.

2 Q. When you displayed your --

3 A. I'm guessing it was probably about
4 a year into it.

5 Q. Okay. When you presented your
6 birth certificate to the U.S. passport agency,
7 did you have any fear of bodily harm?

8 A. No.

9 Q. Were you humiliated in any way
10 during that experience?

11 A. No.

12 Q. Any other instances where you had
13 to show your birth certificate?

14 A. Well, once I got my passport, then
15 I used the passport for most of the instances
16 where I had to supply a primary document.

17 Q. All right. What about to the
18 court in [REDACTED] [REDACTED] where you had your name
19 changed, did you have to show your birth
20 certificate then?

21 A. Yes, I believe so.

22 Q. You didn't fear any bodily harm
23 from the court in [REDACTED] [REDACTED] right?

24 A. Correct.

25 Q. You didn't experience any

1 humiliation when you had your name changed,
2 right?

3 A. No, the judge was very nice.

4 Q. Have you had to show your birth
5 certificate in connection with any schooling
6 that you've received?

7 A. No.

8 Q. Have you had to show it to any
9 friends or relatives?

10 A. No.

11 Q. What about to any medical
12 professionals, to your knowledge?

13 A. No.

14 Q. What about for insurance purposes,
15 receive any other benefits?

16 A. No.

17 Q. And when you got your [REDACTED] [REDACTED]
18 driver's license, I take it you used your
19 passport? Correct?

20 A. Actually, I'm not even sure if
21 they wanted that. They wanted multiple
22 identifiers. I'm not sure if I used the
23 passport. I might have.

24 Q. But you didn't use your birth
25 certificate, right?

1 A. Correct.

2 MR. BLAKE: Can you give me just one
3 minute. I'm going to look over my notes. I might
4 be done, but I'm just going to look over my notes
5 real fast, okay?

6 MS. INGELHART: Sure.

7 (Pause in proceedings.)

8 MR. BLAKE: Okay. I don't have
9 anything further.

10 MS. INGELHART: And I don't have any
11 questions, but Jane Doe wants to say something.

12 MR. BLAKE: Oh, sure, go ahead.

13 THE WITNESS: I just want to say
14 thank you for allowing us to do this interview
15 this way and not having me come to Ohio. I
16 appreciate it very much.

17 MR. BLAKE: Yeah. Let's go off the
18 record.

19 (Thereupon, signature was not
20 waived.)

21 (Thereupon, the deposition was
22 concluded at 2:01 p.m.)

23

24

25

1 STATE OF OHIO)

2 COUNTY OF MONTGOMERY) SS: CERTIFICATE

3 I, Kathy S. Wysong, a Notary
4 Public within and for the State of Ohio, duly
5 commissioned and qualified,

6 DO HEREBY CERTIFY that the
7 above-named JANE DOE, was by me first duly sworn
8 to testify the truth, the whole truth and
9 nothing but the truth.

10 Said testimony was reduced to
11 writing by me stenographically in the presence
12 of the witness and thereafter reduced to
13 typewriting.

14 I FURTHER CERTIFY that I am not a
15 relative or Attorney of either party, in any
16 manner interested in the event of this action,
17 nor am I, or the court reporting firm with which
18 I am affiliated, under a contract as defined in
19 Civil Rule 28(D).

20

21


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25

1 IN WITNESS WHEREOF, I have hereunto set my
2 hand and seal of office at Dayton, Ohio, on this
3 23rd day of September, 2019.

4
5 
6 KATHY S. WILSON, RPR
7 NOTARY PUBLIC, STATE OF OHIO
8 My commission expires 12-25-2023
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Veritext Legal Solutions
1100 Superior Ave
Suite 1820
Cleveland, Ohio 44114
Phone: 216-523-1313

September 24, 2019

To: Kara N. Ingelhart

Case Name: Ray, Stacie, et al. v. Acton, Amy, etc., et al.

Veritext Reference Number: 3511588

Witness: Jane Doe Deposition Date: 9/13/2019

Dear Sir/Madam:

Enclosed please find a deposition transcript. Please have the witness review the transcript and note any changes or corrections on the included errata sheet, indicating the page, line number, change, and the reason for the change. Have the witness' signature notarized and forward the completed page(s) back to us at the Production address shown above, or email to production-midwest@veritext.com.

If the errata is not returned within thirty days of your receipt of this letter, the reading and signing will be deemed waived.

Sincerely,
Production Department

NO NOTARY REQUIRED IN CA

DEPOSITION REVIEW
CERTIFICATION OF WITNESS

ASSIGNMENT REFERENCE NO: 3511588

CASE NAME: Ray, Stacie, et al. v. Acton, Amy, etc., et al.

DATE OF DEPOSITION: 9/13/2019

WITNESS' NAME: Jane Doe

In accordance with the Rules of Civil Procedure, I have read the entire transcript of my testimony or it has been read to me.

I have made no changes to the testimony as transcribed by the court reporter.

10/24/19 Jane Doe
Date Jane Doe

Sworn to and subscribed before me, a Notary Public in and for the State and County, the referenced witness did personally appear and acknowledge that:

They have read the transcript;
They signed the foregoing Sworn Statement; and
Their execution of this Statement is of their free act and deed.

I have affixed my name and official seal
this 24 day of October, 2019.

Clara A. Garcia
Notary Public
4/15/20
Commission Expiration Date

DEPOSITION REVIEW
CERTIFICATION OF WITNESS

ASSIGNMENT REFERENCE NO: 3511588

CASE NAME: Ray, Stacie, et al. v. Acton, Amy, etc., et al.

DATE OF DEPOSITION: 9/13/2019

WITNESS' NAME: Jane Doe

In accordance with the Rules of Civil Procedure, I have read the entire transcript of my testimony or it has been read to me.

I have listed my changes on the attached Errata Sheet, listing page and line numbers as well as the reason(s) for the change(s).

I request that these changes be entered as part of the record of my testimony.

I have executed the Errata Sheet, as well as this Certificate, and request and authorize that both be appended to the transcript of my testimony and be incorporated therein.

Date

Jane Doe

Sworn to and subscribed before me, a Notary Public in and for the State and County, the referenced witness did personally appear and acknowledge that:

They have read the transcript;
They have listed all of their corrections in the appended Errata Sheet;
They signed the foregoing Sworn Statement; and
Their execution of this Statement is of their free act and deed.

I have affixed my name and official seal
this _____ day of _____, 20____.

Notary Public

Commission Expiration Date

Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

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THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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